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1 back room in his desk drawer. Mr. Allen's  
2 district manager, Hani Alzaghari..." --  
3 Now, do you know Hani Alzaghari?  
4 A. Uh-huh.

5 Q. Okay. Well let me ask you. If a district  
6 manager comes to you in loss prevention and says,  
7 listen, I think it's important at this high volume store  
8 that they keep at least minor cash in the back  
9 office -- in the back desk, what would you say to that?

10 MS. THOMPSON: Objection. Incomplete  
11 hypothetical, lacks foundation, calls for speculation,  
12 assumes facts.

13 THE WITNESS: I wouldn't say yes. I  
14 would -- if I'm going to violate a major company policy  
15 and put us at risk like that, I'm going to get it from  
16 corporate, the people who write the policies.

17 MS. ALIOTO: Q. Right. Okay. Did  
18 anybody ever come to you and ask you that?

19 A. No.

20 Q. All right. So, "Mr. Allen: Assistant manager  
21 Hani Alzaghari approached me and asked..." --

22 A. Can I take back what I said?

23 Q. Sure.

24 A. Not that I recall.

25 Q. Okay. So do you know -- not that you recall

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1 as far as any of the other store managers asking you if  
2 they -- or district managers --

3 A. Keep cash in the back drawer? The desk  
4 drawer? No. I don't ever recall that. And --

5 Q. Okay.

6 A. -- the only reason I changed it is because I'm  
7 thinking there might have been a store where they took  
8 the cash and locked it in the cage at night just due to  
9 some specific burglaries they were having at night.  
10 But, again, I'm not 100 percent, so that's why I wanted  
11 to change it instead of a "no" to "not 100 percent".

12 Q. Okay. "Mr. Allen's district manager, Hani  
13 Alzaghari approached me and asked to make an  
14 exception for Store 3830 and allowed Mr. Allen  
15 to keep cash in the desk drawer. Mr. Algazhari  
16 explained that because Store 3830 was a high  
17 volume store and very busy with tourists on the  
18 weekends, Mr. Allen needed to keep cash in the  
19 desk drawer. Furthermore, there had been times  
20 when the store had run out of cash and was  
21 forced to go to another Radio Shack to borrow  
22 some cash."

23 Did you hear about that happening often where  
24 one store runs out of cash and they go to another store?  
25 A. Not that I recall.

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1 Q. Okay. "I explained to Mr. Algazhari if  
2 Mr. Allen had the district manager and the  
3 regional manager's approval, then Mr. Allen  
4 could keep the cash in the desk drawer. I  
5 explained that the regional manager had the  
6 authority to override certain policies when it  
7 was in the best interests of the business."  
8 Is that also your understanding as the loss  
9 prevention manager?  
10 MS. THOMPSON: Objection. Lacks foundation.  
11 MS. ALIOTO: Q. That the regional manager  
12 had the authority to override certain policies?  
13 MS. THOMPSON: Objection. Assumes facts,  
14 lacks foundation, calls for speculation.  
15 THE WITNESS: No, that's not my understanding.  
16 MS. ALIOTO: Q. That's not your  
17 understanding?  
18 A. Huh-uh.  
19 Q. What is your understanding when it comes to --  
20 A. Overriding a company policy?  
21 Q. Yeah.  
22 A. Go to the people who write the policy. You  
23 need to get everybody on board to override a company  
24 policy like that.  
25 Q. Right. So you're saying more than the

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1 regional manager and more than the district manager?

2 A. Yeah.

3 Q. Okay. "The regional manager at the time was  
4 Tom Schultz."

5 Do you know Tom Schultz?

6 A. Uh-huh.

7 Q. Do you believe Mr. Schultz is an honest man?

8 A. Absolutely. I don't know him as well as I  
9 knew Tom Nabozny, but yes, I think he is an honest guy.

10 Q. "Mr. Schultz was promoted and then another  
11 gentleman then took his place. Both men, as  
12 well as Mr. Hani Alghazari allowed and  
13 approved Mr. Allen to keep cash in the desk  
14 drawer."  
15 Anyone ever tell you that?

16 A. No.

17 Q. "Store 3830 was not the only high volume  
18 store that was allowed to keep company cash  
19 outside the cash register. Other Radio Shack  
20 stores were allowed to keep company cash

21 outside of the cash register."

22 A. Let me re-read that. Can you -- hold on a  
23 second.

24 Q. Uh-huh.

25 A. Okay. I'm going to back up a little bit to

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1 where you said --

2 Q. Okay.

3 A. -- did I know that they had approved it.

4 Q. Right.

5 A. Or did anybody ever tell me that.

6 Not that I recall. Frank might have said it  
7 during the termination or something like that. But I  
8 don't recall anybody ever telling me that.

9 Q. Okay. When you became -- when you took over  
10 this gentleman's position, were you given his files?

11 A. No, I don't think so.

12 Q. So if this occurred just before you took his  
13 place, you wouldn't have had access to his files to know  
14 that.

15 A. No. I would -- probably had to request them.

16 Q. And, again, do you know of any other  
17 Radio Shack stores that are allowed to keep company cash  
18 outside of the cash drawer because they are high volume  
19 stores?

20 A. Not that I can recall, no.

21 Q. And again this issue of the \$200 being in the  
22 back drawer of the store. That was never an issue on  
23 any of your visits with Frank, right?

24 MS. THOMPSON: Objection. Misstates the  
25 testimony.

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1 MS. ALIOTO: Right.

2 THE WITNESS: Can I ask for a clarification on  
3 what she just said?

4 MS. ALIOTO: No, she's just saying that's not  
5 what you've said before.

6 THE WITNESS: So repeat your question one more  
7 time, I'm sorry.

8 MS. ALIOTO: I'm going to have her do that  
9 because it was not the best phrasing.

10 (Record read by the Reporter as follows:

11 "Q. And again this issue of the \$200  
12 being in the back drawer of the store.  
13 That was never an issue on any of your  
14 visits with Frank, right?"

15 MS. THOMPSON: Same objection.

16 THE WITNESS: Not that I recall.

17 MS. ALIOTO: Q. Not that you recall?

18 A. No.

19 It could have been there and I could have  
20 never found it, never seen it. I don't know.

21 Q. Right. But you never had a discussion with  
22 Frank about any cash in the back drawer, right?

23 A. Not that I recall. Maybe up until the  
24 incident towards the end of his employment.

25 Q. What was the incident?

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1 A. That you were talking about with Donna and  
2 everything where they found the cash money in the back  
3 drawer?

4 Q. Yeah.

5 A. Might have had a conversation with him on that  
6 one.

7 Q. With Frank.

8 A. Might have.

9 Q. Okay. I don't want you to guess. I want to  
10 know whether you did.

11 A. Okay. Well then I can't really answer much,  
12 so no.

13 Q. That's good. That's good.

14 A. I don't know. I don't know.

15 Q. Did you have a conversation with Donna Ocampo  
16 about cash in the back drawer?

17 A. I don't know. Can't say for sure.

18 Q. Okay. At the termination day, was cash in the  
19 drawer discussed?

20 A. I can't say for sure. I mean I can reference  
21 back to that report I wrote. The narrative.

22 Q. Your report doesn't have it.

23 A. Okay, then I can't say for sure.

24 Q. Okay. Let's look at the report. I don't want  
25 to upset opposing counsel.

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1 A. I'm guessing maybe towards the end of  
2 2009-ish. If you guys have the date Tom Nabozny left, I  
3 would be able to get it much closer.

4 Q. Yeah, I think he says in his declaration,  
5 which was the last exhibit --

6 A. That's what I was going to say. He probably  
7 said it somewhere.

8 Q. Let's see.

9 A. Because once he left, I accepted his position  
10 fairly quickly.

11 Q. Okay. Looking at Exhibit 12, Mr. Nabozny  
12 states in Paragraph 17, "in October 2009, I retired from  
13 Radio Shack Corporation.

14 A. Sounds about right.

15 Q. Okay. So from about October 2009 until  
16 January of 2011, your position was regional loss  
17 prevention manager.

18 A. Yes.

19 Q. And during that entire time you reported to  
20 James Peterson?

21 A. Yes.

22 Q. And what were your general duties and  
23 responsibilities during that period when you were the  
24 regional loss prevention manager?

25 A. I mean, generally speaking, like I said

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1 before, protecting the company's assets. You know from  
2 both operational, external/internal losses.

3 Q. What was the company policy during that  
4 period, at least -- well let me back up.

5 During the entire period you were in loss  
6 prevention at Radio Shack, was it your understanding  
7 that there was a company policy with regard to where  
8 cash should be maintained at the stores?

9 A. I can't say for sure. I mean I can say I  
10 believe there was a policy, but there was some policy  
11 that wasn't always -- I don't know. Honestly, I don't  
12 know. I think there was. I can't say for certain.

13 Q. When you were the regional loss prevention  
14 manager, where was cash supposed to be maintained in the  
15 stores?

16 A. Cash drawer. And like I said I believe there  
17 were some situations where we allowed certain stores to  
18 lock it in their cage at night because we had a high  
19 rate of burglaries going around the area.

20 Q. Okay. So when you say cash drawer, you mean  
21 the cash register drawer?

22 A. Yeah. Yeah, I'm sorry.

23 Q. And what --

24 MS. ALIOTO: I'm sorry. Locked in the cage?

25 THE WITNESS: Yeah, in the security cage where

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1 all the high-theft items were -- excuse me. High-priced  
2 items. So -- and that was -- I believe that was rare.  
3 I think we had maybe one or two. We had strings of  
4 burglaries going around a specific area.

5 MS. THOMPSON: Q. All right. So let me  
6 make sure I understand something.

7 So the policy, as you understood it, while you  
8 were regional loss prevention manager, was that all cash  
9 was supposed to be kept in the cash register drawers at  
10 the stores, correct?

11 A. Correct.

12 Q. And it's your recollection that that there  
13 might have been a few exceptions where cash was allowed  
14 to be locked into the cage -- the security cage in the  
15 back?

16 A. Yes.

17 Q. Were there any other exceptions to the  
18 policy --

19 A. Some stores got the drop safes where they  
20 could drop their cash. We never -- as far as I know, I  
21 don't think I had any in my region. It was like a test  
22 thing they were doing out -- putting out.

23 Q. All right. I'm just asking about what --  
24 right now I'm asking about stores that you're familiar  
25 with.

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1 A. Okay.

2 Q. So the general policy was that they're

3 supposed to be kept in the cash register drawer, right?

4 A. Uh-huh.

5 Q. You have to respond audibly.

6 A. Yes.

7 Q. Okay. And you're saying that there were some

8 exceptions, you believe, where cash could be locked in

9 the security cage in the back.

10 A. (Witness nodded head.)

11 Q. Right?

12 A. Yes.

13 Q. Okay. Were there any other places where store

14 managers were permitted to keep cash other than those

15 two?

16 MS. ALIOTO: Those two.

17 THE WITNESS: Aside from the safe that I said?

18 MS. THOMPSON: All right.

19 THE WITNESS: From the few select stores that

20 had a drop safe, they could do it there.

21 MS. THOMPSON: Q. What's a drop safe?

22 A. It's just a little safe that you drop your

23 money into.

24 Q. Okay. So some stores you understood had

25 what's called a drop safe.

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1 A. Yeah.

2 Q. And those stores that had a drop safe were  
3 permitted to store their cash in the drop safe.

4 A. Yes.

5 Q. Okay. So you've given me -- there is the drop  
6 safe -- there was no drop safe in Frank Allen's store,  
7 was there?

8 A. No.

9 Q. Okay. And you said that there were -- you  
10 believe there were some rare instances where the money  
11 was allowed to be kept in the security cage in the back,  
12 right?

13 A. Yes.

14 Q. Was that your understanding that that  
15 exception applied to Frank Allen's store?

16 A. No.

17 Q. So other than -- if there wasn't a drop safe  
18 and the store wasn't permitted to keep the cash locked  
19 in the security cage in the back, was it your  
20 understanding that the cash was supposed to be kept at  
21 all times in the cash drawer?

22 A. Yes.

23 Q. Okay. What was your understanding of the  
24 purpose of that policy?

25 A. I guess just to protect the cash. For

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1 whatever reason they figured this was the safest spot.  
2 They couldn't invest the funds into any other better  
3 protections like the safes, so.

4 Q. Okay. As you sit here now, are you aware of  
5 any other store manager, other than Mr. Allen, who kept  
6 cash in a manager's desk drawer?

7 A. No. Not that I can recall.

8 Q. Would that be something that would stand out  
9 in your mind?

10 A. Not really, no.

11 Q. All right. You mentioned that there were  
12 three people that you had a problem with at Radio Shack;  
13 is that right?

14 A. I think there were three people I said that  
15 there were issues on. I could probably think of a  
16 couple more.

17 Q. All right. Well, why don't you tell me who  
18 the people were that you had problems with at  
19 Radio Shack?

20 A. James Peterson.

21 Q. Right.

22 A. David Charles.

23 Q. Yep.

24 A. After going to HR, I had a serious problem  
25 with Shaan Smith.

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1 Q. Okay.

2 MS. ALIOTO: Who is the "he?" James?

3 THE WITNESS: David Charles.

4 MS. ALIOTO: David Charles.

5 MS. THOMPSON: David Charles is who we are  
6 talking about right now.

7 MS. THOMPSON: Q. Now, at any time during  
8 the course of your employment with Radio Shack, did  
9 you ever hear anyone at Radio Shack make any  
10 derogatory comments based on an employee's race?

11 A. No.

12 Q. Okay. Again, throughout the period of your  
13 entire employment with Radio Shack, did you ever hear  
14 anybody, any Radio Shack employee, make any comment that  
15 you thought was derogatory based on age?

16 A. Never.

17 Q. Did you ever hear anyone make any derogatory  
18 comments about Mr. Allen's race?

19 A. Never.

20 Q. Did you ever hear anyone make any derogatory  
21 comments about Mr. Allen's age?

22 A. Never.

23 Q. Did you ever hear Donna Ocampo make any  
24 derogatory comments about any employee's age or race?

25 A. Never.

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1 Q. Do you have any reason to believe, as you sit  
2 here now, that Donna Ocampo was biased against Mr. Allen  
3 because he was African American?

4 A. Not at all. No way.

5 Q. Why do you say that?

6 A. Because I worked close enough with her and I  
7 was involved in the situation enough to know why he was  
8 terminated. I knew Donna fairly well professionally and  
9 that's not her -- I mean in my opinion.

10 Q. Right.

11 A. Who knows, they could have a second  
12 personality outside of work. But I've never experienced  
13 never even a hint of anything like that from Donna.

14 Q. When did you first meet Donna Ocampo?

15 A. It was probably when I got hired. Shortly  
16 after. Probably within a month or two of me getting  
17 hired and going around and meeting people, so.

18 Q. In 2008?

19 A. Yeah.

20 Q. Okay. Did you continue to work with her  
21 fairly closely throughout the course of your employment  
22 until you went out on leave?

23 A. No. My relationship with her was more like  
24 "hello" in passing for the first year or so until I  
25 became the regional loss prevention manager.

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1 Q. Okay.

2 A. She was actually a temporary regional sales  
3 director when we were -- that spot was kind of open for  
4 a while. And she was awesome. She was a great business  
5 partner, she was professional, she knew what she was  
6 doing, she was supportive. I've got nothing but  
7 positive things to say about her.

8 Q. Did anyone ever complain to you that they felt  
9 that Donna was discriminating against them because of  
10 age or race?

11 A. No.

12 Q. Did you ever hear that at all in the  
13 Radio Shack grapevine?

14 A. Not that I can recall.

15 Q. So from October 2009 until the time you went  
16 out on your leave, you worked fairly closely with Donna  
17 Ocampo during that period?

18 A. Yes.

19 Q. And during your interactions with her, you  
20 perceived her to be professional?

21 A. Extremely.

22 Q. Did you observe any instance where you felt  
23 that Donna Ocampo was treating any of her employees in a  
24 manner you thought was unfair or inappropriate?

25 A. No.

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1 Q. Now, do you believe that you bear any bias  
2 against Mr. Allen because of his race?

3 A. Never. No.

4 Q. Do you believe you bear any bias against him  
5 because of his age?

6 A. No.

7 Q. Based upon your observations of how Mr. Allen  
8 was treated by Ms. Ocampo, was there anything at all in  
9 the way she treated him that you thought was unfair or  
10 inappropriate?

11 A. Absolutely not.

12 Q. Was she ever rude or disrespectful to him?

13 A. Her approach sometimes, depending on who it  
14 is, could be interpreted as rude. It's more  
15 straightforward, to the point, which I've always said is  
16 kind of up in the air as far as it's a thin line between  
17 being rude and being, you know, just blunt and honest  
18 and not sugar-coating things.

19 When you stack her up against Greg Pattakos or  
20 David Charles, they were rude. They talked down to  
21 people. You know, they actually insulted people.

22 Donna would never do that. But she would come  
23 in and say, I don't know if this is considered rude, but  
24 listen, this is a repeat issue. This is unacceptable.

25 Some people might take that as rude in retail

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1 management. Maybe you need to acknowledge the positive  
2 first and then go into the, you know, the negative and  
3 how we need to fix things, but.

4 Q. So based on your observations of working with  
5 her somewhat closely for some number of months, you  
6 found her to be blunt and direct?

7 A. Yeah. I personally didn't take any of her  
8 comments as rude. But she was very forward, very to the  
9 point.

10 Q. Did any employees ever complain to you that  
11 they thought Donna Ocampo had treated them rudely?

12 A. Not that I can recall.

13 Q. Did Frank Allen ever tell you that he thought  
14 Donna Ocampo had been rude to him?

15 A. Not that I recall. The last question I was  
16 going to say, if anybody had, it was probably Frank.  
17 But I don't know if he has, so I can't say that.

18 Q. Did you ever observe -- any time you saw  
19 interaction between Donna Ocampo and Frank Allen, did  
20 you ever observe her to engage in any conduct that you  
21 thought was rude or inappropriate?

22 A. No. No.

23 Q. Had you ever heard from any source, up till  
24 today, that Frank Allen had ever made a complaint to  
25 human resources about discrimination or harassment based

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1 on his race or age?

2 A. I do believe I heard that.

3 Q. When did you hear that first?

4 A. After the termination. I don't recall when, I  
5 don't recall who, but I know I had heard that Frank  
6 Allen was -- I don't know what the word would be.  
7 Pushing back. You know, trying to say that something  
8 was against or -- I'm not trying to -- let me think of  
9 what I'm trying to say here.

10 I had heard through the grapevine that  
11 Frank Allen was saying that we had done something wrong.  
12 Whether it was his race or his age, he felt that he was  
13 wrongfully terminated.

14 Q. So you heard that from some source after the  
15 termination.

16 A. Yes.

17 Q. And do you remember from what source you heard  
18 that?

19 A. I don't. I don't.

20 Q. Okay. Before the termination, had you heard  
21 from any source that Frank Allen had ever made any kind  
22 of complaint about alleged race discrimination or age  
23 discrimination?

24 A. Not that I recall.

25 Q. Has anyone at Radio Shack ever instructed you

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1 to engage in any conduct that you thought was an act of  
2 discrimination against an employee based on age or race?

3 A. Absolutely not.

4 Q. Did you ever hear Greg Pattakos make any kind  
5 of comment that you thought was based on age or race?

6 A. No.

7 Q. What about David Charles?

8 A. Not that I recall.

9 Q. Is that something you think would have stood  
10 out in your mind?

11 A. If it was by race, absolutely it would. If he  
12 had made a comment -- you know, I would think an age  
13 comment as well. Anything that's absolutely  
14 inappropriate and unprofessional can get you in trouble  
15 would probably stand out in my mind if I was present for  
16 it. Because I would be worried about myself. I don't  
17 care if you get fired for saying something stupid.  
18 Don't get me involved.

19 Q. Okay. So against that backdrop, you don't  
20 recall anybody ever making any comments that you thought  
21 were inappropriate based on age or race, is that --

22 A. No.

23 Q. Okay. As the regional loss prevention  
24 manager, did you believe it was appropriate to terminate  
25 Mr. Allen based on the conduct that you had observed and

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1 were familiar with?

2 A. Absolutely.

3 Q. What was the role of the store manager with  
4 regard to protecting company assets?

5 A. There is --

6 Q. What was your understanding of it during the  
7 course of your employment.

8 A. I mean to get into specifics, I know the  
9 weekly cage count is required. And it's not just to  
10 complete it. The big thing that we pushed was, yes,  
11 obviously you have to complete it each week. But you  
12 have to let us know, if there is something missing, that  
13 you don't have a reason for it. So that was one of the  
14 major ones was the weekly cage count.

15 Q. Well, I guess maybe my question wasn't clear  
16 and I apologize. I'm just speaking in a general sense.

17 Did the store manager have some responsibility  
18 with regard to protecting company assets?

19 A. Yes.

20 MS. ALIOTO: I'm going to object. He was  
21 answering it in the general.

22 MS. THOMPSON: Did I cut you off?

23 THE WITNESS: Well, I mean I thought that was  
24 probably the most important answer to that question was  
25 the cage count as far as what we asked them to do.

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1           Some other ones were product protection. Like  
2           I had talked about with the laptop locks and whatever  
3           else. Obviously protecting the cash as well. If you  
4           left cash laying around and it got stolen, that's not  
5           really protecting our assets.

6           MS. THOMPSON: Q. What was your  
7           understanding, as the regional loss prevention  
8           manager, in terms of what the store manager's  
9           responsibilities were with regard to the store  
10          employees in terms of their --

11          MS. ALIOTO: That's vague --

12          Q.           -- obligations to the company?

13          MS. ALIOTO: Vague and ambiguous.

14          THE WITNESS: That is -- there is a lot of  
15          responsibilities for their employees. I mean --

16          MS. THOMPSON: With respect to loss  
17          prevention.

18          THE WITNESS: With respect to loss prevention?  
19          I mean I guess ensure that they adhere to loss  
20          prevention policies, and if not, you hold them  
21          accountable.

22                 I mean, they're not the ones necessarily  
23          responsible for executing a lot of the loss prevention  
24          things. But with the store manager doing his part on  
25          the loss prevention things, and following the policies

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1 and procedures that can detect if an employee is doing  
2 something dishonest -- I'm falling back to the cage  
3 count again. The weekly cage count. Because that was  
4 one of the biggest things: Employees stealing  
5 high-priced items out of the cage. Well, if you're not  
6 doing that, you're not ensuring your employees are  
7 following procedures and being honest. So.

8 MS. THOMPSON: Q. So was it a store  
9 manager's responsibility to make sure that the store  
10 employees adhere to company policies and procedures  
11 even if the store manager wasn't there?

12 A. Yes.

13 Q. Based upon your experience at Radio Shack and  
14 your position as a regional loss prevention manager, was  
15 the fact that if a policy was violated and the store  
16 manager was not present, would that absolve the store  
17 manager of responsibility for the employee's violations?

18 A. I would think it totally depends on the  
19 situation and what happens.

20 Q. Okay. Could you look at Exhibit 5, please.

21 A. Yep. Okay.

22 Q. All right. So look at the second page, which  
23 has got the number 194 in the lower right-hand corner.

24 MS. ALIOTO: You guys are going to be faster  
25 than I with these exhibits, so one second.

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1 Exhibit 5. What did you say after that?

2 MS. THOMPSON: I just said turn to the second  
3 page.

4 MS. ALIOTO: Okay.

5 MS. THOMPSON: Q. Okay. So there was  
6 some questioning earlier about the fact that  
7 apparently this visit was prompted by a request from  
8 the district manager. Do you recall that question  
9 generally?

10 A. Yes, I do recall that.

11 Q. Is that an unusual occurrence to have a  
12 district manager ask for you to come visit the store?

13 A. No. It's encouraged. It shows that they're  
14 paying attention to loss prevention things in their  
15 store and that they care.

16 Q. Okay. So did your DM's typically do that on a  
17 fairly regularly basis?

18 A. Yeah.

19 Q. And did Donna, I take it, request that you  
20 visit stores other than Frank Allen's store?

21 A. Yes.

22 Q. You did not feel -- did Donna ever say or do  
23 anything which led you to believe that she was singling  
24 Frank Allen out for any purpose?

25 A. Aside from the purpose of he was really

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1 neglecting a lot of policies and she needed support,  
2 since loss prevention is my area of expertise and that's  
3 the majority of what he was violating, no, it wasn't for  
4 any unacceptable reason. It was, hey, we keep  
5 identifying a repeat issue with this guy. I need to  
6 take a partner. Since a lot of it is loss prevention  
7 related, you're my regional loss prevention manager, I  
8 need your help in this.

9 MS. ALIOTO: Facts not in evidence.

10 MS. THOMPSON: Q. As you sit here now, do  
11 you remember having specific -- you personally  
12 having specific concerns about Frank Allen's  
13 compliance with loss prevention policies and  
14 procedures?

15 A. Yes. It was all documented.

16 Q. I understand that it's documented, but I'm  
17 just again wondering, do you in your mind, as you sit  
18 here, without looking at the documents, do you remember  
19 having -- specifically having issues with Frank Allen  
20 when he was the store manager that involved loss  
21 prevention issues?

22 A. Yes. Whether it was Frank Allen or anybody  
23 else, anybody who neglected the policies this bad, I had  
24 a major concern with.

25 Q. Well, how was Frank Allen's discharge of his

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1 responsibilities with regard to loss prevention policies  
2 and procedures, how did that compare to other store  
3 managers in that district?

4 A. It was a lot worse than other people. Were  
5 there other people in my region like that? Yeah.

6 Q. Okay.

7 A. Did they end up getting terminated? Yeah. I  
8 mean, can I give you a specific example? Obviously not.  
9 I don't recall. But.

10 Q. So in your opinion was Frank Allen the worst  
11 in his district in terms of loss prevention policies and  
12 procedures?

13 A. In the whole time I worked in that district, I  
14 can't say that for sure. I'd have to go back and think  
15 about every store visit and everything that's ever  
16 happened in any store. We had a lot of issues in  
17 San Francisco District.

18 Q. Okay. Okay. Looking at, again, the second  
19 page of Exhibit 5. And under Non-Negotiable. The  
20 heading Non-Negotiable.

21 Do you see where I'm reading from?

22 A. Uh-huh.

23 Q. Okay. The third entry down says "no." And  
24 the question is,

25 "Does the store manager know how to pull their

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1 P & L and review the inventory control numbers,  
2 review store strength and other lost  
3 performance with SM?"

4 So why did you answer "no" there?

5 A. Because he did not know how to pull his P & L.

6 Q. How do you know that?

7 A. Because if I hadn't had done this, it would be  
8 an N/A.

9 THE REPORTER: I'm sorry, it would be what?

10 THE WITNESS: I'm sorry. Non-applicable.

11 So if I mark this as a "no," that means I sat  
12 down with him at the computer, asked him do you know how  
13 to pull up your P & L. When he says no, I pull it up  
14 with them and review the numbers.

15 MS. THOMPSON: Q. Was that a serious  
16 issue in your mind?

17 A. It was not an issue as far as potentially  
18 causing any loss to the store by not knowing how to do  
19 that. However, this is where, if he was looking at  
20 this, a manager for 13 years should know how to pull his  
21 P & L. And if he was reviewing it, he would have seen  
22 the cash shortages he had had from numerous months.

23 Q. And was that -- you know, the fact that he  
24 wasn't seeing and was not aware of his cash shortages,  
25 was that a problem in your mind as the regional loss

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1 prevention manager?

2 A. Yes. I would expect a store manager, who had  
3 been there for 13 years, to know how to look at, I mean,  
4 what's to them one of the most important reports. So,  
5 yeah.

6 Q. And why would it be important for the store  
7 manager to know how to pull and read those reports?

8 A. Well, just from a loss prevention standpoint,  
9 it is a great indicator of potential losses not just  
10 with cash but with product as well. And it's not their  
11 job to do the investigating. We're not asking that.  
12 Just if you see something unusual, that's where you call  
13 us.

14 Q. The next "no" entry under Non-Negotiables  
15 under -- on the second page of Exhibit 5, it says,  
16 "No - If there were variances in excess of  
17 \$5 in the past 30 days, were there less than  
18 three? What were the total number of days with  
19 a cash variance greater than 5?"

20 So what does that entry mean?

21 A. Well, we pull up the individual days and the  
22 cash shortages for each day. Unfortunately, when I  
23 answered this, I only answered -- there were more than  
24 three cash shortages that were over \$5 in the last 30  
25 days. However, I did not answer the second part which

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1 actually told you how many days and how much. So I only  
2 said that there were more than three over \$5 in 30 days.

3 Q. Then moving down the column of  
4 Non-Negotiables, you answered "no" to the question,

5 "Are there count sheets for secured inventory  
6 for the last eight weeks? Are discrepancies  
7 reconciled?"

8 MS. ALIOTO: I'm sorry. Where are you? You  
9 said moving down, but --

10 MS. THOMPSON: I'm reading the question.

11 MS. ALIOTO: Are you in the middle? Where are  
12 you?

13 THE WITNESS: Right here. If you go --

14 MS. ALIOTO: Okay. Great, great, great. Got  
15 it. Thank you.

16 MS. THOMPSON: Q. Okay. Are there -- so  
17 the questions are,

18 "Are there count sheets for secured inventory  
19 for the last eight weeks? Are discrepancies  
20 reconciled? Have the discrepancies been  
21 reported to the RLPM and DM? Cage count should  
22 be located on the clipboard in the cage."

23 Now, why did you answer "no" to that?

24 A. Let me read my notes.

25 There was a cage count that wasn't completed

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1 in February. So for the first question, are there count  
2 sheets for secured inventory for the last eight weeks,  
3 that would make it a no.

4 Q. Okay. What's the significance of that?

5 A. They didn't count all their high-end product  
6 for a week.

7 Q. And why is that important?

8 A. It's the highest theft items. I mean you need  
9 to -- it's required, as a store manager, you do that  
10 once a week and ensure that you're not losing anything  
11 out of there.

12 Q. Now, did you discuss all of these items  
13 directly that are listed on Exhibit 5 with Mr. Allen  
14 that day in the store?

15 MS. ALIOTO: That day. Vague and ambiguous.

16 MS. THOMPSON: Q. The day you were in the  
17 store on March 9th, 2010.

18 A. I can't say for certain that I discussed every  
19 single point on this sheet with him. I can say every  
20 time I did a visit like this, it was my routine to sit  
21 down with a store manager after the visit, print this  
22 out, and they would have a copy attached to their  
23 clipboard and review everything with them.

24 Q. That was your standard policy and practice?

25 A. Yes. That was my routine.

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1 Q. And do you have any reason to think you  
2 deviated from that policy and routine on your store  
3 visit on March 9th, 2010?

4 A. Not at all. If anything, I spent more time  
5 with him going over this because this is another  
6 follow-up visit for repeat issues. So, again, I don't  
7 remember sitting down and talking about every single  
8 point on this, so I can't say yes I talked about, you  
9 know, this deactivation detail. It's the third to the  
10 last on there. I don't know if I talked about that,  
11 but --

12 Q. By the way, preparing Exhibit 5, both the  
13 first and second pages. Was it your goal to be as  
14 truthful and accurate as you could be?

15 A. On everything, yes.

16 Q. And do you believe that the items that are  
17 listed -- that are included on Exhibit 5, are truthful  
18 and accurate in all respects --

19 A. Absolutely.

20 Q. -- to the best of your recollection?

21 A. Sorry.

22 Absolutely.

23 Q. So moving down to, like, the bottom quarter of  
24 the Non-Negotiatable column on the second page of  
25 Exhibit 5. The question is,

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1 "Are all security devices being used properly  
2 including lockinpeg hooks, fill toppers and  
3 laptop cables," and you answered no.

4 Why were you answering "no" there?

5 A. Again, if I refer down to my notes. Sales  
6 floor -- that's not it.

7 "There were five laptops that did not have a  
8 proper security device on them."

9 And the next question for LCD's. There were  
10 all six LCD TV's did not have the security cables on  
11 there.

12 Q. Is that important?

13 A. Extremely important.

14 Q. Why is that?

15 A. Because we have grab and runs on laptop -- a  
16 grab and run is where somebody comes in, grabs an item,  
17 runs out. That happens all the time, if I'm not  
18 mistaken. If we had all my documentation ever, there  
19 was a situation where that happened in this store, and  
20 he still failed to secure laptops.

21 Q. Okay.

22 A. Plus, I'm sorry, there is a lot of burglaries  
23 as well where people break in. If you cable up the  
24 TV's, it makes it extremely difficult for them to get  
25 the TV's off.

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1 Q. Now, again, about maybe the seventh entry up  
2 from the end.

3 A. Uh-huh.

4 Q. The question is,  
5 "Have all ICST's been received in the RSS  
6 within seven days."

7 First of all, what is an ICST?

8 A. Oh. Inner-Company Stock Transfer, I believe.

9 Q. And what does RSS mean?

10 A. I couldn't tell you what the acronym is. It's  
11 essentially the computer system where you receive your  
12 shipments.

13 Q. Okay. Why is that important to do?

14 A. You know what, I couldn't even really  
15 elaborate on it. There is a time frame for you to  
16 receive your shipments. I think it's more of an  
17 operational/organizational priority there. Because if  
18 you have shipments piling up that are not received  
19 within the seven days, it could take you 14, 21 days,  
20 however long. Something could be taken out of that  
21 shipment. You might not notice. Your stockroom will  
22 get cluttered. So I mean that's, I guess, some  
23 importance of it.

24 Q. Okay. Let's see. The third up from the  
25 bottom, Review Deactivation Detail.

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1 "Are there indications of internal  
2 involvement, common associates names or other  
3 unusual patterns that can indicate fraud..." --  
4 So the answer to that is no.

5 A. Yes. That was okay.

6 Q. That was no. Okay.

7 The one right above that.

8 "Review the shipments in the RSS system. Were  
9 all shipments received into the RSS system  
10 within 24 hours of receipt? Is there evidence  
11 that the SM is completing the must-count list?"  
12 And you answered no to that.

13 What does -- what's that about?

14 A. You know, this is such a -- I don't want to  
15 say it's unimportant, these questions right here, as far  
16 as the transfers go. But it was -- it's tougher for me  
17 to speak to them. I don't really recall. I know it was  
18 in regards to the transfers, checking them in, detailing  
19 certain ones. Meaning if there is a box that's -- you  
20 know -- your cell phones. You have to detail and  
21 receive that. Count each and every one and account for  
22 it on the packing list. If there is a box of speaker  
23 wire and little teeny gadgets and pieces and parts of  
24 stuff, you don't need to detail-receive that. Meaning  
25 you just accept the shipment and assume what's there is

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1 supposed to be there. And that's company policy on that  
2 stuff.

3 Q. Okay. So looking at this entire list of  
4 Non-Negotiables. What, from your perspective as the  
5 regional loss prevention manager, were the most  
6 important items?

7 A. Going down the list --

8 Q. And please review it carefully and just  
9 highlight for me which ones you think are the most  
10 important.

11 A. The cash shortages. Cage count. Cage count  
12 would probably be number one for me. And then the  
13 merchandise protection as far as the laptops, LCD TV's.  
14 And then last I'd say is knowing how to pull your P & L.  
15 And I just -- that's not -- like I said, that's not  
16 really going to cause a loss if you don't know how to  
17 pull your P & L, but it's going to make it so you can't  
18 detect certain losses. And as a store manager for 13  
19 years, that is one of the most important reports. You  
20 should know how to pull your P & L.

21 Q. Why would it be important for a store manager  
22 to know whether he was having -- he or she were having  
23 cash shortages?

24 A. I mean even on their reviews -- they're not  
25 loss prevention, but -- I'm not 100 percent, so I can't

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1 say for certain. But I believe it is on a store  
2 manager, a district manager's review as far as shrink  
3 goes.

4 Q. Okay. So how would you rate -- what was -- if  
5 you had to give a rating to the store visit on  
6 March 9th, 2010 from a loss prevention perspective, how  
7 would you rate that visit?

8 A. D, D- maybe. Not a total F, but -- yeah, D or  
9 D-.

10 And I think you have to look at that specific  
11 visit for that store. This is not a brand new store  
12 manager who is new with the company and didn't go  
13 through training and didn't know the policies and  
14 procedures.

15 Again, if I was able to refer back to all my  
16 documentation, this is stuff that has happened in the  
17 past, this is stuff that has happened with a manager who  
18 has been here long enough and knows the policies and  
19 procedures, and for whatever reason, I don't know,  
20 chooses not to follow them.

21 Q. Has any employee ever accused you of being  
22 discriminating against them based on race or age?

23 A. No.

24 Q. So look, if you will, at Exhibit 3, which is  
25 the Corrective Action Record.

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1 A. Okay.

2 Q. Were you aware that -- did Ms. Ocampo ever  
3 discuss with you whether she was going to issue  
4 Mr. Allen a Corrective Action Record based upon the  
5 March store visit that you made?

6 A. I don't recall.

7 Q. I forgot. Maybe Ms. Alioto asked you this.  
8 Was Ms. Ocampo with you on the day of the  
9 store visit on March 9th, 2010?

10 A. I don't recall. I mean if she was, I would  
11 hope that I would have noted it in the visit. But it's  
12 been entirely possible that she was and I didn't. I  
13 really don't know.

14 Q. Okay. You just don't recall one way or the  
15 other.

16 A. Yeah, yeah. I do not.

17 Q. Okay. Did Ms. Ocampo have anything at all to  
18 do with your preparing the two documents that are  
19 included in Exhibit 5?

20 A. Exhibit 5?

21 Q. Yeah. Page 1 and Page 2.

22 A. Do you mean did she -- like, having a say in  
23 what I was putting there?

24 Q. Right. Let's start with that.

25 A. No. This is all my findings, my words.

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1 Q. Okay. Did she direct you to prepare either  
2 Page 1 or Page 2 of Exhibit 5?

3 A. No, she didn't direct me to prepare anything.  
4 When I go in, I do a store visit, we fill these out. I  
5 mean she might have requested a copy of it, but she  
6 knows she's getting a copy anyways because I send it to  
7 her, so I don't think that's the case. So, no -- to  
8 answer your question, no.

9 Q. I take it she is not your superior in any  
10 way --

11 A. No.

12 Q. -- was she?

13 She wasn't in a position to give you orders  
14 and instructions?

15 A. No.

16 MS. ALIOTO: Well --

17 MS. THOMPSON: Q. Would you say --

18 MS. ALIOTO: -- objection. Misstates prior  
19 testimony.

20 THE WITNESS: No, you asked me that and I said  
21 no. She is not my superior.

22 MS. ALIOTO: Versus a DM request. She  
23 requested that you --

24 THE WITNESS: Oh, yeah, she could request.  
25 She could request anything. A store manager can make a

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1 A. Yes.

2 Q. And the region included a number of different  
3 districts, right?

4 A. Yes.

5 Q. And so you had a number of different district  
6 managers that you were dealing with other than  
7 Ms. Ocampo; is that right?

8 A. Yes.

9 Q. Okay. And how would you compare Ms. Ocampo to  
10 the other district managers that you worked with in your  
11 region at this time in terms of their competency in  
12 their job?

13 A. She was one of the best.

14 Q. We talked a little bit about -- or you  
15 referred to Basem Aybeth. And he was a temporary  
16 regional sales director?

17 A. Uh-huh.

18 Q. Is that "yes?"

19 A. Yes. I'm sorry.

20 Q. Did you have any -- how much interaction did  
21 you have with him?

22 A. We did one round of store visits that I  
23 recall, and this was the one where I had James Peterson  
24 and -- David Charles? Was that his name? Yeah.

25 And that was the one where I had some major

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1 problems. They were making fun of me for doing the  
2 knocking on the ceiling. Basem was present for that  
3 visit. So I remember we did some store visits with him  
4 one week. I might have met him a couple other times,  
5 but that was, like, the one interaction where I was  
6 present with him for a couple days.

7 Q. So in terms of your interactions with Basem,  
8 did you have any difficulty -- did you personally have  
9 any problems in dealing with him?

10 A. Not that I recall.

11 Q. Did you ever observe Basem Aybeth treating any  
12 employees in a manner that you thought was not  
13 appropriate?

14 A. Not that I recall. I really did have limited  
15 interaction with him just that one, you know, little  
16 tour we did around the region.

17 Q. Did you ever hear Basem Aybeth say anything  
18 that you thought was derogatory about any employee based  
19 on their race or their age?

20 A. Not that I recall, no.

21 Q. And, again, as you indicated earlier, that's  
22 something you would remember.

23 A. I would think it would stand out in my head,  
24 especially -- yeah, if I'm there, I want to get away  
25 from that.

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1 Q. Could you look at Exhibit 6, please.

2 A. Yeah. Got it.

3 Q. This is the narrative that you wrote on the

4 second page of Exhibit 6. Is that truthful and accurate

5 to the best of your recollection?

6 A. One hundred percent.

7 Q. What was your purpose in writing up this

8 narrative on Exhibit 6?

9 A. To give a detailed account of what happened.

10 With his reaction, I'd like to say I, if not we --

11 Donna -- could anticipate it wouldn't be a good

12 reaction. So personally, something like this happening

13 with a lawsuit going against Radio Shack from Frank

14 Allen doesn't surprise me. So I would like to make sure

15 that I have all the facts out there and I have my

16 statement as far as what happened goes. So --

17 Q. Did --

18 A. -- I can't say this took place on every single

19 store manager termination. Since this was a rather

20 difficult one, and very detailed, and he had been there

21 13 years, we want to make sure we have everything

22 perfect.

23 Q. Well, let me back up a little bit and ask you.

24 What was your understanding of why you -- why

25 you and Ms. Ocampo were going to the store, to Frank

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1 Allen's store, on April 27th, 2010?

2 A. I want to say I just -- I can't say for  
3 certain that we were going there knowing that he was  
4 going to be terminated. But I know I earlier said -- I  
5 said that I can't say that for certain. I believe we  
6 went there knowing we were going to deliver the  
7 termination. I want to say that Donna requested I was  
8 there because Frank did not care for her. I can't say  
9 that for sure.

10 Q. What makes you say that Frank did not care for  
11 Donna Ocampo?

12 A. I believe she told me that. You know what, I  
13 guess I shouldn't even say that because I can't really  
14 support it with anything. You know, any statements that  
15 I remember specifically.

16 Q. Well, I'd like you to read, again, your  
17 narrative, if you don't mind, so I can ask you some  
18 questions about it.

19 A. Do you want me to read it out loud?

20 Q. No. Just to yourself. And let me know when  
21 you feel like you've done it.

22 MS. ALIOTO: Can I ask the court reporter a  
23 question? Do you know what page you're on?

24 THE REPORTER: Yeah. About 187.

25 (Pause for review.)

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1 THE WITNESS: I think I'm ready if you want to  
2 ask some questions.

3 MS. THOMPSON: Q. Okay. And you wrote  
4 this narrative shortly after the events that it's  
5 describing; is that a fair statement?

6 A. I believe I wrote it the same day.

7 Q. Okay. So the events were still pretty fresh  
8 in your mind?

9 A. Yes. And I did write it the same day. I'm  
10 sorry.

11 Q. So is there any doubt in your mind that the  
12 reason that the reason you and Ms. Ocampo were going to  
13 the store that day was to advise Mr. Allen that he was  
14 being terminated? Is there any doubt in your mind about  
15 that?

16 A. That that's why we were going there?

17 Q. Right.

18 A. You know, the only thing is -- I said it  
19 earlier -- I don't recall -- I can't say for certain  
20 that we had a discussion that we were going there to  
21 terminate him.

22 I know this probably isn't valid. I'd say I'm  
23 99 percent sure that that's why we were going there, and  
24 I want to say 99 percent sure that she requested I was  
25 there. But --

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1 Q. Given your role in loss prevention, did you  
2 have any role in the decision to terminate Mr. Allen's  
3 employment?

4 A. Yes. My role was, you know, compile  
5 everything that I had, present it to them. You know. I  
6 stated what I thought here and I stated the same thing  
7 to them.

8 Q. So did Ms. Ocampo ask for your input in terms  
9 of whether you thought Mr. Allen should be terminated?

10 A. I don't recall if she asked.

11 Q. Did you volunteer your opinion?

12 A. I stated what I thought.

13 Q. And what was your -- what did you tell  
14 Ms. Ocampo?

15 A. You know I can't say word-for-word.

16 Q. No, I understand that. But to the best of  
17 your recollection, understanding it's not word-for-word,  
18 what was --

19 A. My thought is --

20 Q. -- the general effect of what you were saying?

21 A. -- he should not be a store manager with us.  
22 Too many repeat issues. The guy is -- yeah, he deserved  
23 to be terminated. I mean, just based on his  
24 performance. His sales might have been phenomenal, but  
25 it doesn't, you know, excuse neglecting all these

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1 different things, repeatedly.

2 Q. And you shared that opinion with Ms. Ocampo,  
3 you believe.

4 A. I'm sure it was something very similar to what  
5 I just said.

6 Q. Were you ever asked by Shaan Smith your  
7 opinion about whether Mr. Allen should be terminated?

8 A. I don't recall.

9 Q. So looking at your narrative. You make the  
10 statement -- first of all, let me ask you something.

11 Do you have any actual memory of any of these  
12 events, even if it's vague, about what actually happened  
13 that day on April 27th, 2010?

14 A. I remember him saying, "thank you for freeing  
15 a slave." Because that really stuck out in my mind.

16 Q. Okay. Do you remember anything else  
17 specifically?

18 A. Specifically, no. Like I said, I can say I  
19 remember that he was angry. I remember that it was  
20 uncomfortable.

21 Q. When you say he was angry, what do you mean?  
22 What was he doing that led you to believe he was angry?

23 A. I think when he started using foul language in  
24 a professional environment, that shows that you're  
25 angry.

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1 Q. So --

2 A. You slam your keys down. I think that kind of  
3 displays, you know, a little anger.

4 Q. When you say he was using foul language, was  
5 it the F word? Was it --

6 A. I couldn't tell you exactly what it was.

7 Q. Was the language offensive to you?

8 A. Honestly I have thick skin, so it didn't  
9 offend me. But it was absolutely inappropriate. It was  
10 unprofessional.

11 If he was getting a write-up instead of a  
12 termination for that language alone, I think everybody  
13 would say this guy needs to be terminated.

14 Q. And is the -- when he asked what the reason  
15 was for his termination, the reason given was that he  
16 was failing to protect company assets?

17 MS. ALIOTO: Objection. Misstates his  
18 testimony.

19 THE WITNESS: Donna explained to him that it  
20 was due to his failure to protect company assets.

21 MS. THOMPSON: Q. So when you were  
22 preparing the narrative set forth in Exhibit 6, were  
23 you doing your best to be as accurate as possible  
24 and reflecting what was said and done, right?

25 A. Absolutely.

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1 Q. Okay. And to the best of your knowledge and  
2 belief, what Donna said that -- Donna, quote, "explained  
3 that it was due to his failure to protect company  
4 assets," end quote. Is that right?

5 A. That's correct.

6 Q. The next statement in the narrative says,  
7 quote,

8 "Frank argued that he is not responsible for  
9 what his associates do when he is not here, as  
10 he had left the store before the money was left  
11 unsecured in the desk drawer," end quote.

12 Did you think that was a valid explanation or  
13 excuse?

14 A. I think we would need to have a conversation  
15 about that to figure out if it is. If he had told them  
16 you can do this, then absolutely he's responsible for  
17 it. If he told them you are not allowed to do this and  
18 then they do it, he's responsible for holding them  
19 accountable for it. He's responsible for communicating  
20 it up to us. But I wouldn't say he is accountable for  
21 them doing it if he told them specifically "do not do  
22 this." But we didn't get into that detail, so I don't  
23 know.

24 Q. Okay.

25 A. So it could be a valid point.

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1 Q. Okay. But if he told his associates that it  
2 was acceptable for them to put cash in the manager's  
3 desk drawer in the back, he would be -- in your view, he  
4 should be held responsible for it?

5 A. Absolutely. If you direct your associates to  
6 break company policy --

7 MS. ALIOTO: Objection. Misstates the facts  
8 in evidence.

9 MS. THOMPSON: You can finish your answer.

10 THE WITNESS: Okay. I just feel as a manager,  
11 if you direct your associates to break a policy, I think  
12 you're responsible for that. As well as them.

13 MS. THOMPSON: Q. Okay. Then you say,  
14 quote,

15 "Frank then called Donna shady, at which time  
16 she told him to leave the store," end quote.

17 You have the word "shady" in quotes. Is that  
18 the exact word he used?

19 A. Yes.

20 Q. And did he tell you what he meant by that?

21 A. No. I mean shady normally means --

22 MS. ALIOTO: No, no. Objection. Calls for  
23 speculation.

24 THE WITNESS: Okay. Yeah. I mean people can  
25 interpret that word as they want.

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1 MS. THOMPSON: Q. Did you have any  
2 interpretation of what he meant when he called  
3 Donna, quote, "shady?"

4 A. From my use of the word shady and from my  
5 hearing it throughout my life, it means you're kind of  
6 dishonest, a little I guess weasely, and, you know, you  
7 can't be trusted.

8 Q. Did you think that was appropriate for him to  
9 be calling Donna shady?

10 A. No.

11 Q. Did you think that was a fair characterization  
12 of Donna?

13 A. No.

14 Q. At the end you say,  
15 "After giving him the letter of separation,  
16 he said, quote, 'Thank you for freeing a  
17 slave,' end quote, and began to walk out.  
18 After that comment, I told Frank that was not  
19 appropriate, and he walked out of the store  
20 yelling."

21 Did you tell Mr. Allen that his comment about  
22 freeing a slave was not appropriate?

23 A. Yes.

24 Q. And then you said he walked out of the store  
25 yelling. Was he literally yelling when he walked out?

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1 A. Was he screaming at the top of his lungs? No.  
2 Was he talking real loud? Yes.

3 Q. So his voice was raised?

4 A. His back was to us and he was walking to the  
5 doors and we could still hear his voice towards the back  
6 of the store where we were at. So, do I remember what  
7 he was saying on the way out? I have no idea, but --

8 Q. Okay.

9 A. I talk loud. He was talking way louder than I  
10 was, or that I currently am.

11 Q. But you don't know what he was saying.

12 A. I don't recall, no.

13 Q. Okay.

14 THE WITNESS: I'm sorry, guys. Can I take  
15 just two more minutes to run to the restroom real quick?

16 MS. ALIOTO: Sure.

17 MS. THOMPSON: Yeah.

18 (Recess: 2:11 p.m. to 2:14 p.m.)

19 MS. THOMPSON: Q. Was there anything  
20 about the way that Donna behaved during the  
21 termination discussion on April 27th, 2010 that you  
22 thought was in any way inappropriate or  
23 unprofessional?

24 A. No. I thought she did a great job.

25 Q. Based upon what you know, is there

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1 anything -- let me withdraw that.

2 Maybe you asked this -- maybe Ms. Alioto asked  
3 you this and you answered and I apologize --

4 MS. ALIOTO: Okay. Asked and answered.

5 MS. THOMPSON: I thought you didn't object.

6 MS. THOMPSON: Q. As you sit here now, do  
7 you know of any store manager that kept cash in the  
8 store manager's desk drawer?

9 A. Not that I can recall, no.

10 Q. Was there anything at all about the way that  
11 Frank Allen was treated at any time, that you're aware  
12 of, that you thought was discriminatory against him  
13 based on his age or his race?

14 A. No. Not at all.

15 MS. THOMPSON: I have nothing further.

16 MS. ALIOTO: Okay. Just a couple of  
17 questions.

18 THE WITNESS: No problem.

19 FURTHER EXAMINATION

20 MS. ALIOTO: Q. You said there were two  
21 exemptions to this cash rule, and one is a drop bank  
22 and the other is the cage?

23 A. Uh-huh.

24 MS. THOMPSON: No. Drop safe I think he said.

25 THE WITNESS: Yes, drop safe. I'm sorry.

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1 MS. ALIOTO: I like drop bank.

2 MS. THOMPSON: Okay.

3 MS. ALIOTO: No, no. Drop safe, cage.

4 THE WITNESS: (Witness nodded head.)

5 MS. ALIOTO: Two exceptions to the cash  
6 drawer.

7 MS. THOMPSON: Right.

8 MS. ALIOTO: Q. And what do you mean by  
9 cage? How do you put the money in the cage?

10 A. It's just a big security cage. They had --  
11 every store had like a different type of cage. There  
12 are several different styles of the cage.

13 But essentially -- like I believe Frank's  
14 store, it was a big chain-link fenced-in cage with  
15 shelves in there. And you put your high-end product in  
16 there. Your cell phones, your gaming consoles, and  
17 stuff like that in there.

18 So, give you an example. If there was a  
19 string of burglaries in Livermore -- because we had four  
20 stores in Livermore and they were constantly getting  
21 burglarized. We would get authorization to take the  
22 cash out of the drawers at night and lock it in the  
23 security cage. Because it's harder to get in the  
24 security cage.

25 Q. Who would you get authorization from?

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1 A. I would go to James Peterson. And then I  
2 don't know if he would go higher up the food chain. I'm  
3 assuming he would take another partner. He wouldn't  
4 just make the decision on his own.

5 Q. And in the stores -- so let me understand  
6 this. You put it in an envelope and you just put it in  
7 with the inventory that's in the security cage.

8 A. No. You keep it in the register till itself.  
9 You know when the drawer pops out, there's a little back  
10 part that you just lift up --

11 Q. So you take the whole tray out the way it is  
12 and put it in the security cage.

13 A. I don't know if that's how they were doing it,  
14 but honestly I don't know. I believe that's how they  
15 did it.

16 Q. Okay. And who in the stores had -- did the  
17 staff have the key to the security cage?

18 A. Policy is the store manager is supposed to  
19 have the key and there is authorized keyholders for when  
20 the store manager is not there.

21 Q. So the staff can have it if they were  
22 authorized --

23 A. Yes.

24 Q. -- to have it.

25 And do you know what the amount was for this

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1 exemption to put it in the security cage? Was there a  
2 cash amount?

3 A. I don't think it mattered as far as the  
4 denomination. It was just what was the situation to  
5 where we had to put it back there. Like I said, if  
6 there is a string of burglaries and they're targeting  
7 cash, they're just smashing in and grabbing the cash and  
8 running out, then we lock it up in the cage if need be.

9 Q. And you're talking about at nighttime.

10 A. Yes.

11 Q. Okay. Are you talking about at all during the  
12 day?

13 A. Pardon?

14 Q. Are you talking at all about during the day?

15 A. No.

16 Q. No.

17 A. No.

18 Q. So you're saying the whole cash drawer comes  
19 out and goes in for the night.

20 The other exception. The drop safe. Is that  
21 up to the store manager whether he wants to get a drop  
22 safe or not?

23 A. No. No. It's just a very few select stores  
24 that they tested them in. So, I mean, if it was up to  
25 me, every single store would have one. It would make

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1 Q. Okay.

2 A. Because I remember when I first started -- not  
3 when I first started. Obviously it was about a year  
4 after I started. But when I was in the investigations  
5 manager position, I believe, I came and did a visit at  
6 that store. I did a couple visits in the San Francisco  
7 market just to look at it because I hadn't been out here  
8 and obviously it's a big market.

9 Q. Okay.

10 A. So, there is -- it's totally possible that  
11 there are visits in between then -- the February 2009  
12 and the March 9th -- actually -- well -- I wish we had  
13 all the documentation.

14 Q. I understand what you're saying, but you don't  
15 know of any that you can think of.

16 A. In that time frame?

17 Q. Yeah.

18 A. I don't know if during that time frame.

19 Q. Okay.

20 A. I know there were other visits.

21 Q. Okay. Let me ask you about -- did anyone ever  
22 tell you that Frank Allen had complained and had a  
23 management meeting concerning Mr. Pattakos?

24 MS. THOMPSON: Objection. Assumes facts not  
25 in evidence.

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1 THE WITNESS: Not that I recall.

2 MS. ALIOTO: Q. Okay. Did anyone ever  
3 tell you that there had been a group of people who  
4 had been complaining about the way they were treated  
5 by Pattakos that were at a management meeting in  
6 December of 2009?

7 MS. THOMPSON: Objection. Misstates the  
8 record and assumes facts.

9 THE WITNESS: I remember hearing that a lot of  
10 people were complaining about Greg Pattakos. I can't  
11 say I remember that specifically though.

12 MS. ALIOTO: Q. But did you ever hear  
13 that there actually had been a meeting about these  
14 complaints concerning Greg Pattakos and that Frank  
15 Allen was at the meeting?

16 A. I can't say for sure yes or no. I mean it  
17 sounds vaguely familiar, but I can't say, yeah, I  
18 remember that.

19 Q. Okay. Did Ocampo ever tell you, prior to  
20 her -- wait.

21 She requested you go make a store visit in  
22 March. You go make the visit. At any point in March or  
23 April, prior to the termination on the 27th, did Ocampo  
24 tell you that he had complained about Pattakos?

25 A. Not that I recall.

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1 Q. Okay. Is it possible that when you went to  
2 the April 27th termination -- what I'm calling the  
3 termination -- that when you were going there with  
4 Ocampo, you didn't know he was going to be terminated?

5 MS. THOMPSON: Objection. Calls for  
6 speculation.

7 THE WITNESS: Anything is possible, but like I  
8 said earlier, I'm 99 percent sure that when I went there  
9 I knew what I was going there for because I believe I  
10 went there because Donna requested I would go because it  
11 might be an uncomfortable situation.

12 MS. ALIOTO: Q. Well, that's what I'm  
13 asking you about. Do you recall any conversation  
14 with Ocampo before going there about why you were  
15 going there?

16 A. I believe so. Just like I said, I don't want  
17 to say 100 percent that, yes, I remember exactly what we  
18 said, and that we were going there for the termination.  
19 I mean -- I know it doesn't hold any water if I say  
20 99 percent sure --

21 Q. No.

22 A. -- but --

23 Q. Let me just ask you this. As you sit here  
24 today, are you positive that you were going there with  
25 Ocampo to terminate him?

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1 MS. THOMPSON: Objection. Asked and answered  
2 about eight times now.

3 THE WITNESS: That's true.

4 MS. ALIOTO: Call it ten.

5 THE WITNESS: Ten?

6 MS. ALIOTO: Yeah.

7 THE WITNESS: Same thing. I mean I'm  
8 99 percent sure I knew exactly why I was going there,  
9 which was -- well, I knew I was going there to terminate  
10 him and accompanied Donna because she requested me  
11 there. I'm just -- I'm worried that maybe she called me  
12 asking me to meet her there. When I got there, she told  
13 me. I don't know. I mean I can't say 100 percent.

14 MS. ALIOTO: Q. Okay. All right. Do you  
15 have any documents from Ocampo asking you to go to  
16 that meeting?

17 A. I don't have anything in regards to  
18 Radio Shack with the exception of possibly all the  
19 documents that I had in regards to my HR complaints.

20 Q. Right. Now you testified that you moved jobs  
21 because you found a better opportunity. But wasn't it  
22 also because you felt that you were being harassed?

23 MS. THOMPSON: Objection.

24 THE WITNESS: It was also better for my  
25 health.

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1 MS. ALIOTO: Q. Better for your health  
2 because you felt that at the workplace -- as you  
3 stated earlier -- that you felt there was  
4 harassment.

5 A. Yeah, I mean the fact that I was getting  
6 harassed and the fact that I felt I was getting  
7 retaliated on. Yeah, it was a big factor in it. Like I  
8 said, I would have gone back but things would have had  
9 to change. I wasn't going back to what I was in.

10 Q. Right. Under the same supervision you were  
11 under.

12 A. Huh-uh. Absolutely not.

13 MS. ALIOTO: Okay. I think that is it.

14 All right. I think that's it. Thank you so  
15 much.

16 MS. THOMPSON: Okay. I now have a couple of  
17 follow-ups.

18 FURTHER EXAMINATION

19 MS. THOMPSON: Q. So going back to this  
20 business -- the exception of the cash -- leaving the  
21 cash in the cage. I just want to be really clear.

22 Your understanding was that to the extent  
23 there was such an exception, it applied only at night  
24 after the store was closed; is that right?

25 A. From my understanding. There may have been

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1 other exceptions in other regions that I don't know  
2 about. But as far as I remember doing it in our region,  
3 which was rare, yeah, it was locked up at night in the  
4 cage.

5 Q. Okay. Are you ever aware of any situation  
6 where money was put in the cage, cash was put in the  
7 cage, during the day while the store was open?

8 A. Not that I recall.

9 Q. Going back to Exhibit 4, which was the --

10 A. Uh-huh. Got it.

11 Q. What was your purpose in preparing Exhibit 4?

12 A. Any time we do a visit and there is a  
13 violation of company policy, we should be documenting it  
14 every time.

15 Q. Okay. Looking at the last paragraph on the  
16 first page of Exhibit 4 where you state,

17 "In February 2009, a visit was conducted and  
18 Allen had just had a laptop stolen from the  
19 sales floor where he did not have it secured at  
20 all," end quote.

21 Were you referring to your earlier  
22 documentation in preparing that part of the Exhibit 4?

23 MS. ALIOTO: Vague and ambiguous --

24 THE WITNESS: I don't follow what you said.

25 MS. ALIOTO: -- I don't know what you said.

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1 MS. THOMPSON: Okay.

2 THE WITNESS: The February visit? Was I  
3 referring to that for what?

4 MS. THOMPSON: Q. No. My question was --  
5 and I'm sorry if it was not very artful. I'm sure  
6 it wasn't.

7 When you were preparing Exhibit 4, did you go  
8 back to look at your earlier documentation regarding  
9 Frank Allen?

10 A. Most likely, yeah -- yes. I don't know why I  
11 wouldn't have.

12 Q. Was that your normal practice?

13 A. Yes. If it's a repeat issue, I go back and I  
14 put in dates and what happened to show that, hey, this  
15 happened then, it's happening again now.

16 Q. And was that your purpose in putting in the  
17 reference to what happened in February 2009 --

18 A. Yes.

19 Q. -- in Exhibit 4?

20 A. Yes.

21 Q. Okay. So my question was, were you reviewing  
22 your earlier documentation when you prepared Exhibit 4?  
23 In other words, did you go back and look to see what you  
24 had said about Mr. Allen earlier?

25 A. That's my normal practice. I don't see why I

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1 wouldn't have here.

2 Q. Okay. And do you believe, then, that you were  
3 reviewing a document that said that in February 2009,  
4 Frank Allen had had a laptop stolen that was not  
5 secured?

6 A. Yes.

7 Q. You were asked before about a question about  
8 whether you had ever heard -- well, let me ask you the  
9 question.

10 Did you ever hear Donna Ocampo make any kind  
11 of statement, ever, about the image projected by any of  
12 the store employees?

13 A. Not that I recall.

14 Q. Did she ever even use that word in referring  
15 to employees?

16 A. Not that I recall.

17 Q. Did she ever say anything to you about Frank  
18 Allen's image or use the word image in connection with  
19 Frank Allen?

20 A. Again, not that I can recall.

21 Q. Would it have surprised you if you heard Donna  
22 say something like that, or that somebody would  
23 attribute that statement to Donna Ocampo?

24 A. It depends on how it's said. I mean if Donna  
25 was to say it the way Frank is running this store is not

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1 the image of how we want a Radio Shack, well, that would  
2 make sense in the sense if Frank's store was a mess.  
3 That's not the image we want to present.

4 Now if Frank as an individual -- if Frank  
5 doesn't fit our image, that would be wrong. I've never  
6 heard anything like that from her in that context.

7 Q. Have you heard anything like that from anyone  
8 at Radio Shack referring to the image presented by an  
9 individual and not the store?

10 A. Not that I recall.

11 MS. THOMPSON: Okay. Let's mark the next  
12 document as 12.

13 (Plaintiff's Exhibit 12 - should  
14 be 13 - marked for  
15 identification.)

16 MS. THOMPSON: Q. Okay. For the record,  
17 I've marked as Exhibit 12, a one-page document Bates  
18 numbered RS Allen 91. It appears to be a memo from  
19 Tom Nabozny to Hani Alghazari, dated April 16th,  
20 2007.

21 And if you would just take a minute to read  
22 Exhibit 12, Mr. Gonsolin. Take as much time as you need.

23 A. Uh-huh.

24 (Pause for review.)

25 Okay.

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1 Q. Have you seen Exhibit 12 before today?

2 A. Not that I recall, no.

3 Q. With regard to the kind of issues that are  
4 being outlined here by Mr. Nabozny in this memorandum,  
5 had you encountered similar kinds of issues with regard  
6 to Frank Allen?

7 MS. ALIOTO: That calls for speculation.  
8 There is no document like that.

9 THE WITNESS: That's what I was going to say.  
10 It's entirely possible. I would have to refer back to  
11 any of my store visit notes that we don't have here, so  
12 I don't know.

13 MS. THOMPSON: Q. Okay. Did Donna Ocampo  
14 ever say or do anything to you that would suggest  
15 that she had a bias against African Americans?

16 A. No. Not at all. I mean --

17 Q. Do you know anything about her children -- her  
18 child?

19 A. Yeah. That's what I was going to say. And I  
20 know it's something that people will say, oh, well, my  
21 friend is black.

22 MS. ALIOTO: Come on you guys, really?

23 THE WITNESS: Isn't her husband? I don't know  
24 if they ever got married, but, yeah, isn't he African  
25 American?

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1 MS. THOMPSON: Yes.

2 THE WITNESS: Yeah.

3 No, never would she ever say anything like  
4 that to me, or did she ever say anything like that to  
5 me.

6 MS. THOMPSON: Okay. I have nothing further.

7 MS. ALIOTO: Okay. Then I have one last  
8 question.

9 FURTHER EXAMINATION

10 MS. ALIOTO: Q. And that is on the  
11 document that's Exhibit No. 4, since you did  
12 reference the February 2009 and you don't reference  
13 any other date -- and you were looking at all of the  
14 documents you had on Frank, right?

15 A. I might have just been looking at ones that  
16 pertained to these issues.

17 Q. Right. But you didn't have any documents  
18 between February '09 and March of 2010.

19 A. No. We don't have any here.

20 Q. No, no. I mean in this document you don't  
21 reference any --

22 A. I don't reference any, yes.

23 Q. Right.

24 MS. THOMPSON: The document speaks for itself.

25 MS. ALIOTO: Exactly.

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1 I, DEBRA J. SKAGGS, CSR No. 7857, a Certified  
2 Shorthand Reporter, do hereby certify:

3 That DAVID GONSOLIN, the witness in the  
4 foregoing deposition was by me duly sworn to tell the  
5 truth, the whole truth, and nothing but the truth in the  
6 within-entitled cause;

7 That said deposition was reported by me and  
8 transcribed as herein set forth;

9 That, if signed, the deposition was read by or  
10 to said witness, corrected in every particular desired  
11 way, and was thereafter subscribed by said witness;

12 That, if unsigned, the deposition was retained  
13 by me at the offices of DE SOUZA & ASSOCIATES, San  
14 Mateo, California and was available for reading,  
15 correcting and signing by said witness.

16 I further certify that I am not interested in  
17 the outcome of said action, nor connected with, nor  
18 related to any of the parties in said action or to their  
19 respective counsel.

20 IN WITNESS WHEREOF I have hereunto  
21 set my hand this 25<sup>th</sup> day of

22 October 2012.

23   
24 DEBRA J. SKAGGS, CSR No. 7857

25

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## Unit Visit Log

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District:	0530
Store:	013830
Date Visited:	07/15/2010
Time of Visit:	09:45 AM - 11:45 AM
Duration of Visit:	2 hour(s), 00 minute(s)
Manager Name:	Frank Allen
Visit Conducted By:	Mari Alzghari

### FOLLOW-UP FOR NON-NEGOTIABLE STANDARDS

#### STANDARDS REVIEW

1	PROJECT STATUS	All Standards met
---	----------------	-------------------

Comments:  
Follow Up:

2	ALL PRODUCTS ON DISPLAY AND FUNCTIONAL	Standard(s) not met (N) All products are merchandised according to planogram.
---	--	--

Comments:

- Some sections: needs an update for the planograms, the company will send you tables for wireless and you will gain some well space. I will map the store with you so you can have more room to follow planograms exactly.
  - Move the hand-held TVs from computer section to where the FLO TV is
  - Fill the computer section with more merchandise, laptops must be on and demo ready.
  - Floor stacks of keyboard must be 3 units high with 5x7 signs
  - Make every section neat, clean and organized...priced 100%
- Follow Up:
- Today we move the tables to the right location, make sure you move the pods to match the planograms.
  - We replanned the floor as follows: PPD, BT, Wireless Accessories, Music, Sirius, GPS.
  - You have two extra panels for batteries so now you can do the 8 panels section for power.
  - Make sure you do the planograms for all sections we printed by Jan 23, the store must be Perfect.

3	EVERYTHING PRICED PROPERLY	All Standards met
---	----------------------------	-------------------

Comments:  
Follow Up:

4	NEAT, CLEAN AND SPACED	All Standards met
---	------------------------	-------------------

Comments:  
Follow Up:

<http://home.rsonline.landy.com/unitvisitlog/displaylog.aspx?pagemode=print&FormId=23&UserNb=01&StrId=3830&VisitDate=01/...> 12/14/2010  
RS/ALLEN000179

EXHIBIT	02
Consisting of	Pages
Witness	Signature
Date	

## Unit Visit Log

5	STORE EXTERIOR	All Standards met
Comments:		
Follow Up:		
6	CUSTOMER ENVIRONMENT	All Standards met
Comments:		
Follow Up:		
7	WORKING ENVIRONMENT	<p>Standard(s) not met</p> <p>(N) Store restroom and appliances are clean, uncluttered and fully functional.</p> <p>• Refrigerator, water fountain, microwave, coffee maker, etc.</p> <p>(N) Backroom inventory area is neat, clean and well organized per Backroom and Counter Standards.</p> <p>(N) Under and behind counter is neat, clean and well organized per Backroom and Counter Standards.</p>
Comments:		
<p>• Restroom sink needs to be cleaned</p> <p>• Floor must be cleaned, remove the POP signs to the basement</p> <p>• Organize the boxes in the backroom, make sure they are faced and fronted on every shelf.</p>		
Follow Up:		
• Its done.		
8	STORE SAFETY	All Standards met
Comments:		
Follow Up:		
9	ASSET PROTECTION	All Standards met
Comments:		
Follow Up:		
10	SCHEDULING	All Standards met
Comments:		
Follow Up:		
11	RECRUITING	All Standards met
Comments:		
Follow Up:		

<http://home.rsonline.tandy.com/unitvisitlog/displaylog.aspx?pagenode=print&FormId=23&UserNb=01&StrId=3830&VisitDate=01/...> 12/14/2010

RS/ALLEN000180

Page 3 of 6

## Unit Visit Log

12	TRAINING	All Standards met
Comments: Follow Up:		
13	PRODUCT KNOWLEDGE	Standard(s) not met (N) All team members can confidently demonstrate features of Key product categories (Wireless, LCD TV, Digital Cameras, GPS, MP3). (N) Team members can articulate current competitive wireless offers in the local market and demonstrate our superior value.
Comments: - One of the most important tasks this week is to get everyone certified with ATG. Have them visit the customer promotions link on a daily basis so you can get them trained with what is on sale. Follow Up: - All done except Victoria, she needs to be done today.		
14	DRESS CODE	All Standards met
Comments: Follow Up:		
15	GOAL SETTING	All Standards met
Comments: Follow Up:		
16	PERFORMANCE REVIEW	Standard(s) not met (N) Performance results are reviewed with every team member weekly, progress towards goals and coaching opportunities are discussed and documented. (N) Monthly performance reviews are documented with all team members to recap all weekly coaching sessions and set expectations for the upcoming month.
Comments: Performance reviews need to be focused on the different needs for each employee. They need to have different plans and action items so they will follow exactly what you asked them to do. Here are some ideas for each KPI: Power Action Plan: -Bundle up the eligible 4-4-11 batteries and place them on the counter for adding on with sales -Compare the value for button cell batteries that are available for 3 packs (use the phrases such as "this one pack of 4-4-11 is \$5.99 or you can get the 3 packs for 11.99) -Utilize RSP for 15% discounts -Ask open ended questions to 9th customers about their other devices that might need batteries such as wife's garage door opener or car -Remind the batteries as necessary not as an option by saying: "You are gonna need these batteries to make this work" -Offer battery installation to guarantee one pack sale and then offer 4-4-11 or eligible multi packs to increase power. -Print the reference chart with new sku's (Enercall) match up new skus with old ones. It will prevent the employees from thinking that we don't have the wanted battery.		

<http://home.rsonline.landy.com/unitvisitlog/displaylog.aspx?pagenode=print&FormId=23&UserNm=01> &StrId=3830&VisitDate=01/... 12/14/2010

RS/ALLEN000181

## Unit Visit Log

## RSSP Action Plan:

1. Do not make the decision for the customer. Never let escape without offering RSSP and trying to overcome at least one objection, and follow up on the associates who do not offer.
2. Have associates write down why the customer declined the RSSP and then call it. This will allow for more skilled skills practice at overcoming specific customer objections.
3. Give associates measurable daily targets, i.e. 1 per day for part time, 3 per day for full time.
4. Bring up the protection plan during the product presentation so the customer is already thinking about the expense before getting to the counter.
5. Know basic price points for RSSP and whether it is a Repair or a Replacement Plan.
6. Place the brochure in the customer's hand to create the feeling of purchasing a tangible product, and use it to show the cost benefit of the RSSP.
7. Do role-play and skills practice on commonly sold products. For example: For cordless phones or anything with a rechargeable battery mention that it covers battery replacement(s). On camera phones mention that it is an in-store replacement and it covers surge protection. On wireless post-paid phones it covers up to 4 accessories on the same line and two batteries, and on pre-paid phones it is an in-store replacement. On wireless car chargers that have a fuse, it will replace the charger or the fuse for less than the cost of the replacement fuse.

## Wireless Attach:

1. Managers/Associates MUST use the new "Wireless Choice" form. Have associates just fill some blank forms out on their own, and then start role playing and have them fill out the form until they are comfortable using it.
2. Role play with 5 "must have" items (screen protectors, memory cards, car chargers, case, and headsets). If you show the customer 5 items, they will usually take at least 1 or 2.
3. Keep some iGo and screen protectors in the cage as a constant reminder when associates go to get the phone.
4. Sell airtime with the no contract phones; don't let the customer under-estimate their usage.
5. Print the latest wireless necessary reference chart, and remember to update it regularly. (Products>Product Reference Sheets>Wireless Attachments>Wireless Necessary Reference Sheet) or <http://online.tandy.com/resources/ProductReferenceSheets/WirelessAccessories/Wireless%20Accessory%20Reference%20Sheet.pdf>
6. Remember to ask wireless customers if they need any accessories for other phones they or family members might own.
7. Remember the disco phones with gift card...perfect for attaching accessories! (Products>Customer Promotions>Wireless Information Site>Promo Offers)

## Key Category Attach:

- 1) Mention earlier in sales process
- 2) Bring them to the counter
- 3) Leading questions (example: Do you store your gps in the glove compartment or under your car seat? Then you need a screen protector or carrying case.)
- 4) Multiple usage
- 5) Make connecting to associates
- 6) Role play for two weeks to develop habit.

## Follow Up:

17	EMPLOYEE AWARENESS	All Standards met
----	--------------------	-------------------

## Comments:

## Follow Up:

<http://home.rsonline.tandy.com/unitvisitlog/displaylog.aspx?pagenode=print&FormId=23&UserNb=01&StrId=3830&VisitDate=01/...> 12/14/2010

RS/ALLEN000182

Page 5 of 6

## Unit Visit Log

16	CUSTOMER SERVICE	All Standards met
----	------------------	-------------------

Comments:

Follow Up:

19	HANDLING RETURNS	All Standards met
----	------------------	-------------------

Comments:

Follow Up:

## PROPERTY ACTION PLAN

Describe Area of Opportunity:

Frank,

A huge improvement in store image since my last visit.

Now it is up to you and your team to keep working on it DAILY by utilizing the Non-Negotiables list.

on 1/11 the company will launch the Mountain Go into Shock, this will be our yearly after the holidays clearing up. Many planograms will be updated and you need to make sure the store is 100% ready by 1/28

Follow Up:

Timeline / Milestone(s):

I will be back next week to map the store with you and work on the new wireless tables that will be shipped.

Follow Up:

Action Plan to achieve milestone:

Follow Up:

## PEOPLE ACTION PLAN

Describe Area of Opportunity:

Follow Up:

Timeline / Milestone(s):

Follow Up:

Action Plan to achieve milestone:

Follow Up:

## PERFORMANCE REVIEW &amp; ACTION PLAN

	\$ / #	%		\$ / #	%		\$ / #	%
YTD NEBB to Plan			Target Bonus					
			YTD Ticket (+/-)			\$/Ticket (+/-)		
YTD Net Sales to Plan								
YTD MGP to Plan			YTD SGP to Plan			YTD Inv Cont to Plan		
YTD Cont Exp to Plan			YTD Payroll to Plan			YTD Mgr Exp to Plan		
LM Sales to Plan						LM Post Pay		
			LM SGP to Plan					
MTD Sales to Plan						LM Pre Pay (+/-)		
			MTD SGP to Plan					

<http://home.rsonline.tandy.com/unitvisitlog/displaylog.aspx?pagenode=print&FormId=23&UserNm=01&StrId=3830&VisitDate=01/...> 12/14/2010

RS/ALLEN000183

Page 6 of 6

## Unit Visit Log

## Describe Area of Opportunity:

Frank,  
Great job on your wireless performance in December, you ended 20 phones with 54% increase. You have to improve in wireless attach to at least 75% this month. You also need your team to work on getting the accessory bag to the counter with every sale, last month your attach was 53%.  
This month you need to hit 15% every week.  
Emails: less than 1%...Why? I expect your team to ask for customer emails every day. This is a simple task and you need to get behind it.

## Follow Up:

- This week your performance as follows:
- You lead the district in sales (VOY) - great job
- Your cost this week is poor: I need every employee to sell one phone per week at minimum.
- Today we have an RSSP (4-4-11) today.
- RSSP number for this week is below 10%, you need to be at 15%. The only way is to hit 25% today and 25% on Saturday.
- Conduct a full one on one with each employee to review the performance, I need one phone, 15% RSSP, 10% Emails and 2 (4-4-11) daily.

## Timeline / Milestone(s):

## Follow Up:

Action Plan to achieve milestones:

## Follow Up:

## CLOSING COMMENTS

## Expectations Summary:

## Follow Up:

## Schedule next visit:

## Follow Up:

## Closing

## Follow Up:

Visit Conducted By

Unit Manager

<http://home.rsonline.tandy.com/unitvisitlog/displaylog.aspx?pagenode=print&FormId=23&UserNo=01&Strid=3830&VisitDate=01/...> 12/14/2010

RS/ALLEN000184





## Corrective Action Record

Employee Name:	Frank Allen	District:	538
Job Title:	Store Manager	Date:	3/23/2010
Supervisor:	Donna Ocampo	Area:	West

*Identify behavior, performance, special issues, or events requiring corrective action:*

Issue to Correct	<p>Failure to protect company assets from internal and external theft.</p> <ul style="list-style-type: none"> <li>5 laptops on display, not secured (only screamers)</li> <li>Missing Cage Counts for Mid February</li> <li>Laptops were not secured in the backroom. David Gonsolin RLP and I made room in the cage to protect the laptops.</li> <li>Several months of numerous cash shortages were found. You failed to report the shortages and did not have an explanation as to why they are happening.</li> </ul>
------------------	---

*List date(s) and summarize all previous counseling's both verbal and written:*

Previous Actions (Specific)	<p>Store Visits from David Gonsolin RLP 2/04/2009 documenting similar issues with asset protection.</p> <p>Previous DM communication through Store Visits, District Meeting and One on One conversations.</p>
-----------------------------	---

*What disciplinary action may occur due to failure to improve?*

Consequences Of Failure To Improve	<p>Failure to achieve the required improvement will lead to additional disciplinary action including and up to termination.</p>
------------------------------------	---

Employee Comments	
-------------------	--

I have received a copy of this Corrective Action Record and understand RadioShack has an Open Door Policy. I may discuss this issue or any other employee relations issue with my Area Human Resources Director, \_\_\_\_\_, the Employee Relations Department or any member of Management in my chain of command.

Frank Allen 3/23/10 Donna Ocampo 3/23/10  
 Employee Date Supervisor Date

RS/ALLEN000192

EXHIBIT	3
Def.	For Identification
Consisting of	1 Pages
Witness	Gonsolin
Date	10-16-12
Debra J. Skane OSB 7857	

[REDACTED]

**From:** Loss Prevention (Corporate)  
**Sent:** Sunday, March 14, 2010 12:05 PM  
**To:** Candice Vaughn; Chris Allen  
**Subject:** FW: VOCP 3830 Allen 031410

**Attachments:** VOCP 3830 Allen.xls

**From:** David Gonsohn  
**Sent:** Sunday, March 14, 2010 12:04:25 PM  
**To:** 0101 RSD Donna Ocampo  
**Cc:** James Peterson; 0340 AHRD Donetta Gunnells; Loss Prevention (Corporate)  
**Subject:** VOCP 3830 Allen 031410  
Auto forwarded by a Rule

Please see the attached Violation of Company Policy Memo regarding Store 3830

3/14/2010 - Failure to secure merchandise on the sales floor, complete weekly cage counts, report cash shortages

On 3/09/10 a visit was conducted to store 01-3830, San Francisco California. During the visit it was found that Store Manager Frank Allen had 5 laptops on display that were only secured by screamers. It was also found that there were 6 LCD TVs on display and none of them had the required security cable. There were also 3 Schlage locksets, approximately \$199.99 each, that had no security devices on them at all. It was also found that Allen had missed a cage count in mid February.

Lastly it was found that over the past several months there were numerous cash shortages. Allen had not reported these and had no explanation as to why they are happening.

Allen is aware of the external challenges of this store due to its location, however, he failed to protect our assets in numerous ways. In February 2009 a visit was conducted and Allen had just had a laptop stolen from the sales floor where he did not have it secured at all. Allen needs to ensure he uses all available resources to protect our assets on the sales floor. Allen must also complete the weekly cage count in full and communicate any missing items to his DM and RLPM. Allen also agreed to start conducting over short inquiries at least 4 times a day and report any large cash shortages to his DM and RLPM.



VOCP 3830  
Allen.xls (687 KB)

1

REDACTED

RS/ALLEN000190

EXHIBIT 04	
Deft.	For Identification
Consisting of 2	Pages
Witness	Gonsohn
Date	10-16-12
Dakota L. Skaggs CSR 7857	



UPLOAD SUCCESSFUL

DATE: March 14, 2010

TO: 8536 DM  
cc: James Peterson, 0340  
AHRD, 0101 RSD  
Loss Prevention (Corporate)

other cc:

FROM: David Gonsolin  
Regional LP Manager  
Office:  
Mobile: (916)412-9552

TYPE: Failure to Protect Assets

SUBJECT: Failure to secure merchandise on the sales floor, complete weekly cage counts, report cash shortages

RE: Store #: 3830 Employee: Allen Frank

The following details are provided to you for your information and action deemed appropriate. If you have any questions concerning this matter, please do not hesitate to contact me.

On 3/09/10 a visit was conducted to store 01-3830, San Francisco California. During the visit it was found that Store Manager Frank Allen had 5 laptops on display that were only secured by screenlocks. It was also found that there were 5 LCD TV's on display and none of them had the required security cables. There were also 3 Schlage locksets, approximately \$199.99 each, that had no security devices on them at all. It was also found that Allen had missed a cage count in mid February.

Lastly it was found that over the past several months there were numerous cash shortages. Allen had not reported these and had no explanation as to why they are happening.

Allen is aware of the external challenges of this store due to its location, however, he failed to protect our assets in numerous ways. In February 2009 a visit was conducted and Allen had just had a laptop stolen from the sales floor where he did not have it secured at all. Allen needs to ensure he uses all available resources to protect our assets on the sales floor. Allen must also complete the weekly cage count in full and communicate any missing items to his DM and RLP. Allen also agreed to start conducting over short inquiries at least 4 times a day and report any large cash shortages to his DM and RLP.

RS/ALLEN000191

Debra J. Stragg

**From:** Loss Prevention (Corporate)  
**To:** Monique Hebert; Candice Vaughn  
**Subject:** FW: LPNN 3830 030910  
**Date:** Sunday, March 14, 2010 9:55:39 AM  
**Attachments:** LPNN 3830 030910.xls

---

**From:** David Gonsolin  
**Sent:** Sunday, March 14, 2010 11:55:23 AM  
**To:** 013830  
**Cc:** James Peterson; 0101 RSD Donna Ocampo; Loss Prevention (Corporate)  
**Subject:** LPNN 3830 030910  
**Auto forwarded by a Rule**

Please see the attached LP Non-Negotiables for Store 3830

During the course of this visit it was found that there have been numerous cash shortages in the last several months. The SM needs to start conducting over short inquiries at least 4 times a day. There was one cage count missed in mid February. There were several items in the product inspection area that need to be secured in the cage. The sales floor had 3 Schlage lock sets that were not secured with screws or anything. Also, there were 5 laptops that did not have proper security device on them and all 6 LCD TV's did not have the cables. There was an ICST that was autoreceived on 2/20 and two shipments that were autoreceived on 2/21 and 1/31. A follow up visit will be conducted by the DM and RLPM to ensure these items are all corrected.

EXHIBIT <u>05</u>	
Deft.	For Identification
Consisting of <u>2</u>	Pages
Witness <u>Gonsolin</u>	
Date <u>10-16-12</u>	
Debra J. Skaggs CSR 7857	

RS/ALLEN000193



**LP Non-Negotiables**  
**UPLOAD SUCCESSFUL!**

Store: 3830  
Region: 11 - San Francisco  
District: 0638 - San Francisco  
Date: 3/9/2010  
RLPM Name: David Gonsolin  
Manager Name: Frank Allen  
Visit Category: DM Request

Non-Negotiables	
Yes	Do store associates know who to contact in the event of a serious incident (Burglary, Robbery, Assault)?
N/A	Review the daily deposits (ANSO > Admin > Daily Deposits > Exception Report) for the past 30 days. Was the store consistently making deposits in a timely manner (no late deposits)? What was the total quantity of late deposits identified?
No	Does the store manager know how to pull their P&L and review the inventory control numbers? Review store's shrink and other loss performance with SM.
N/A	Locate the last 3 days of daily reports. Were all refunds and voids documents present and signed? Conduct an on hand count and verify all refunds over \$35.00 from the same days.
N/A	Of the refund items selected, were you able to match physical counts with store on hand quantities?
N/A	Conduct an Over/Short Inquiry with the person in charge. Was the discrepancy less than \$2.00?
No	If there were variances in excess of \$5 in the past 30 days, were there less than 3? What were the total number of days with a cash variance >\$5?
No	Is there a trend of cash discrepancies that indicate internal theft (large loss, an employee consistently tracks for cash variances)?
Yes	Is a working Manual Credit Card Imprinter available and being used at all times.
N/A	Run a Credit Card report for the last 7 days and verify an imprint was obtained for all manually entered bank cards.
N/A	Are associates aware of the weekly password program?
N/A	Do all key carriers have keys to open the lock box and locking file cabinet?
No	Are there count sheets for secured inventory for the last eight weeks? Are discrepancies reconciled? Have the discrepancies been report to the RLPM and DM? (Cage counts should be located on the clipboard in the cage.)
N/A	Inspect 20 items that are more than \$25 in retail value. Are the merchandise tagging guidelines being followed? Is store consistent with tagging placement?
N/A	Run an on hand report for high dollar merchandise (160,170,200,250,260,420) and randomly check a minimum of 15 high risk items from the stores cage and 10 items from the sales floor for accuracy.
No	Visually inspect the entire backroom area for merchandise that does not appear sellable (loose product). Is the store taking proper steps to dispose of the merchandise (RMAC, ICST, Repair, etc)? (If secured merchandise is in the product inspection area the answer is no)
N/A	Is the store completing the Daily and Weekly Non-Negotiable Standards of Operational Performance Checklist?
N/A	Review the DM's last Non-Negotiable visit, if any discrepancies noted have they been corrected?
N/A	Are all keys including perimeter, cage, locking peg and displays cases secured and in the possession of an authorized key holder?
N/A	Are all the store locks keyed to the RadioShack approved Medico locks?
N/A	Does store have adequate alarm protection (motion covering exterior glass, exterior exits, back stockroom, etc). Is cage vulnerable and need additional protection (e.g. interior common wall with other retailer)?
N/A	Was the backdoor secured? If opened was an associate present at all times?
Yes	If the store has a public view monitor is it properly working?
Yes	Is the CCTV system operable and being used? Are the time and date set correctly?
N/A	Is the EAS system operating properly (inspect by activating the alarm)?
N/A	Using the "Stock File List - All DISCO / DEVAL On Hand Items Report", Select 10 random items from the report with a difference between retail and current pricing of \$50. Were all 10 items on display and priced correctly?
N/A	Are all display cases secured with slide locks?
No	Are all security devices being used properly (including locking peg hooks, acrylic toppers and laptop cables)?
No	Verify all laptops are properly secured (a screamer by itself is not adequate protection)
No	Verify all LCD TV's are secured with mechanical cable to prevent theft and for safety.
No	Have all ICST's been received into the RSS within seven days?
No	Review last 5 packing lists. Is there evidence that the location was verifying shipments and is there corresponding SAR's for overages, shortages or damages? (Finalized SAR's should be attached to the Packing List or they can be reprinted from the RSS under Utilities>Print Manager>Receiving Reports)
No	Review the shipments in the RSS system (Whse Bulk Receiving). Were all shipments received into the RSS system within 24 hours of receipt? Is there evidence that the SM is completing the must count list?
No	Review Deactivation detail. Are there indications of internal involvement, common associates, names or other unusual patterns that can indicate fraud? Talk with associates about wireless knowledge of activation procedures.
N/A	Review store's trash procedure. Are there safety procedures in place and adequate internal controls?
N/A	Are fire exits clear, exit light illuminated? Are there any safety issues that need immediate correction?

**Comments:**

During the course of this visit it was found that there have been numerous cash shortages in the last several months. The SM needs to start conducting over short inquiries at least 4 times a day. There was one cage count missed in mid February. There were several items in the product inspection area that need to be secured in the cage. The sales floor had 3 Schlage lock sets that were not secured with screamers or anything. Also, there were 5 laptops that did not have proper security device on them and all 6 LCD TV's did not have the cables. There was an ICST that was autoreceived on 2/20 and two shipments that were autoreceived on 2/21 and 1/31. A follow up visit will be conducted by the DM and RLPM to ensure these items are all corrected.

RS/ALLEN000194

**0340 AHRM Shaan Smith**

---

**From:** 0538 DM Donna Ocampo  
**Sent:** Tuesday, April 27, 2010 8:12 PM  
**To:** 0340 AHRM Shaan Smith  
**Subject:** FW: 3830 Summary

Below are notes from David Gonsolin from today's termination with Frank Allen.

---

**From:** David Gonsolin  
**Sent:** Tuesday, April 27, 2010 8:07 PM  
**To:** 0538 DM Donna Ocampo  
**Cc:** 0534 RSD Basem Aybaf; James Peterson  
**Subject:** 3830 Summary

Here is my narrative about the termination that took place at 3830 today. Please let me know if there is anything else needed in regards to this incident.

David Gonsolin  
Regional Loss Prevention Manager  
San Francisco Region 11  
Cell (916) 842-9552  
Fax (916) 863-9503



3830 summary.doc

RS/ALLEN000261

EXHIBIT	6
Def.	For Identification
Consisting of	2 Pages
Witness	
Date	10-16-12
Debra J. Skaggs CSR 7657	

On 4/27/2010, District Manager Donna Ocampo and I arrived at store 01-3830 to speak with Store Manager Frank Allen. Upon arrival to the store Frank stated that he was expecting us. We went to the backroom to speak with Frank at which time Donna asked him to explain why she had found \$200 in cash left unsecured in the desk drawer in the backroom. Frank tried to explain that he was not here when that had happened and another associate must have left it unlocked. I explained to Frank that he had a very significant cash loss problem that we had discussed on our prior visit and this was unacceptable to leave cash unsecured like this. Frank immediately began asking what was going to happen with him. Donna informed him that the company is removing him from his position and terminating his employment. Frank slammed his store keys down on the desk and began using foul language, expressing his disagreement with the decision. He asked what the reason for his termination was and Donna explained that it was due to his failure to protect company assets. Frank argued that he is not responsible for what his associates do when he is not here, as he had left the store before the money was left unsecured in the desk drawer. Frank then called Donna "shady" at which time she told him to leave the store. Frank continued to argue with Donna and I attempted to step in and calm him down. I tried to talk him into leaving the store quietly; however, he stated he did not want to hear what I had to say. Donna gave him his letter of separation which he refused to sign. After giving him the letter of separation he said, "thank you for freeing a slave" and began to walk out. After that comment I told Frank that was not appropriate and he walked out of the store yelling.

RS/ALLEN000262

Aug 29 12 02:56p Frank Allen  
Print

15102222560

P. 4  
Page 1 of 1

**From:** FRANK ALLEN (f.allen6588@sbcglobal.net)  
**To:** shaansmith@radioshack.com;  
**Date:** Wed, May 5, 2010 9:24:58 PM  
**Cc:**  
**Subject:** [ No Subject ]

Ms. Smith,

I spoke with you on April 28, 2010 regarding the reason I was terminated by Donna on April 27, 2010. You were going to look into the problem and get back to me. As of today I have not heard from your nor have I received any termination papers. Please advise.

Frank Allen

EXHIBIT	7
Deft.	For Identification
Consisting of	1 Pages
Witness	Gonsolin
Date	10-12-12
Debra J. Skaggs CSR 7657	

<http://us.mg205.mail.yahoo.com/dc/launch?partner=sbc&gx=1&rand=fncamftqfjd7>

8/29/2012

ALLEN V RS 000177



APR 16 07 12:46P



Loss Prevention Services



2000 Crow canyon Pl. #140, San Ramon Ca.

**POOR QUALITY**  
*and*

925-866-0208

Fax: 925-866-1129

431 08 6588

**Tom Nabozny**  
 Loss Prevention Manager

April 16, 2007

## MEMORANDUM

**TO:** Hani Alzaghar DM 01-0538  
**cc:** Tom Schultz RSM / Steve Hodgkins, Director, Loss Prevention  
**FROM:** Tom Nabozny LPM

**SUBJECT:** Policy Violation (Store #01-3830) (Failure follow company compliance Operational procedures)

The following details are provided to you for your information and action deemed appropriate. If you have any questions concerning this matter do not hesitate to contact me.

On Monday April 16, 2007 I conducted an SVR for store 01-3830 San Francisco Ca and found that store manager FRANK ALLEN was not in compliance for operational procedures.

During my visit I found that ALLEN was not reviewing or signing refunds and voids on a daily basis. Several of the refunds either did not have the issuers or the customer signatures as per policy.

19 out of 24 refunds reviewed did not have the customers name, address, or phone number on the refund.

I also reviewed all Sprint contracts from the month of April and found that none of them had the customer profile sheet attached to the contract. I also found that one of the contracts did not have the sales ticket attached. This then lead me to review the manager's Redbook and found that ALLEN has not filed the wireless transaction checklist for the last 18 days

ALLEN needs to understand that by just ignoring these operational procedures, he is showing that he is not being responsible for maintaining the security of company assets. The kind of negligent attitude that is displayed in this area reflects poorly on ALLEN's managerial skills.

To better control this area, ALLEN needs to address his operational issues in a timely and thorough manner.

Please review this violation with the associate and return it to me signed within ten days.

1. *[Signature]*
2. *[Signature]*
3. *[Signature]*
4. *[Signature]*
5. *[Signature]*

Received Time Apr. 25. 11:43AM

EXHIBIT <i>12</i>	
For Identification	
Consisting of	Pages
Witness	<i>Gambin</i>
Date	<i>12-16-11</i>
Debra J. Skaggs CSR 7857	

RS/ALLEN000091

EXHIBIT 9

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

FRANK ALLEN,

Plaintiff,

vs.

CASE NO.  
CV 11 3110 WHA

RADIO SHACK CORPORATION, et al.,

Defendants.

\_\_\_\_\_ /

DEPOSITION OF NABOR ANDREW BACA

October 17, 2012

Reported by:  
WENDY C. BROWN  
C.S.R. NO. 5697

PATRICIA CALLAHAN REPORTING  
Certified Shorthand Reporters  
(510) 885-2371 (415) 788-3993  
Facsimile (510) 247-9775  
PATRICIA CALLAHAN REPORTING

PATRICIA CALLAHAN REPORTING

1 BE IT REMEMBERED THAT, pursuant to Notice of  
2 Taking Deposition, and on Wednesday, October 17, 2012,  
3 commencing at the hour of 11:00 o'clock a.m. of the said  
4 day, at the law offices of MILLER LAW GROUP, 111 Sutter  
5 Street, Suite 700, San Francisco, California, before me,  
6 WENDY C. BROWN, a certified shorthand reporter, State of  
7 California, personally appeared NABOR ANDREW BACA, a  
8 witness in the above-entitled court and cause, produced  
9 on behalf of the defendant, who, being by me first duly  
10 sworn, was then and there examined and interrogated by  
11 Attorney Tracy Thompson, representing the law offices  
12 of MILLER LAW GROUP, 111 Sutter Street, Suite 700,  
13 San Francisco, California, counsel for the defendant.

14  
15 APPEARANCES OF COUNSEL

16  
17 FOR THE PLAINTIFF:

18  
19 LAW OFFICES OF MAYOR JOSEPH L. ALIOTO &  
20 ANGELA ALIOTO

21 BY: ANGELA MIA VERONESE, ESQ.

22 700 Montgomery Street

23 San Francisco, California 94111  
24  
25

1 assigned to?

2 A. Yes, they told me I would be assigned to  
3 Frank Allen's store.

4 Q. And what number store was that?

5 A. 3830.

6 Q. So this was in April of 2004, you were told you  
7 were going to be assigned to Frank Allen's store?

8 A. Yes.

9 Q. And you left Radio Shack when?

10 A. I'm not sure of the exact date.

11 Q. Was it about --

12 A. But it was in 2010.

13 Q. Was it in about June of 2010?

14 A. Yes, about that time.

15 Q. I'm sorry?

16 A. Yes.

17 Q. So April of 2004 until June of 2010, is it your  
18 testimony, then, you were at Frank Allen's Store 3830  
19 that entire time?

20 A. No. No. I would transfer to different stores  
21 to work, not -- I would transfer to Frank Allen's store  
22 to help him out once I transferred to Alex's store,  
23 because they were moving Frank's store.

24 Q. Okay.

25 A. And remodeling it.

1 Q. All right. So how long did you stay working at  
2 Frank Allen's store after April of 2004?

3 A. About a year or so.

4 Q. Okay.

5 A. Because then they moved the store.

6 Q. Okay. So till about April of 2005?

7 A. Yes.

8 Q. And then where did you work?

9 A. Alex Basher's store.

10 Q. The same store that we talked about --

11 A. Yes.

12 Q. What was the address again?

13 A. 652 Market Street.

14 Q. Okay. And how long did you work at Alex  
15 Basher's store at 652 Market Street?

16 A. Pretty much the whole time, the rest of the time  
17 that I was there at Radio Shack, except for the times  
18 when I would transfer back to Frank's store to help him  
19 out, and when they had a shortage of people.

20 Q. You don't remember what Alex's store number was?

21 A. I think it's 1502.

22 Q. All right. So you were regularly assigned to  
23 Alex Basher's store from about April 2005 until the  
24 time you left?

25 A. No. No. I transferred to Frank's store.

1 Q. Okay. So when did you transfer back to Frank  
2 Allen's store?

3 A. That would be in 2010.

4 Q. Do you remember, was that January of 2010?

5 A. Not sure of the -- the date.

6 Q. But sometime in 2010, you were assigned back to  
7 Frank Allen's store?

8 A. Yes.

9 Q. So, to the best of your recollection, then, from  
10 about April of 2005 to some point in 2010, you worked at  
11 Alex Basher's store?

12 A. Yes.

13 Q. Did you work at any other stores during that  
14 period?

15 A. Yes.

16 Q. What other stores did you work at?

17 A. I can't remember the names. There was others,  
18 Radio Shack stores, and they were always short of  
19 people, so I would -- they would e-mail and say, "You  
20 need somebody to transfer to this store to help out for  
21 a while."

22 Q. Okay. So if they would ask you to go  
23 temporarily to another store, that's what you did?

24 A. Yes, I would do it. I would volunteer.

25 Q. So in 2010 when you transferred to Frank Allen's

1 store, did you stay at Frank Allen's store until the  
2 time you left the company in about June of 2010?

3 A. Yes.

4 Q. During that period, from 2010 when you  
5 transferred into Frank Allen's store to June 2010 when  
6 you left, did you work at any other stores?

7 A. No.

8 Q. And were you a full-time employee at Mr. Allen's  
9 store during the period from 2010?

10 A. Yes.

11 Q. Now, why did you leave Radio Shack in about June  
12 of 2010?

13 A. I found a job with Home Depot.

14 Q. What was the job that you found with Home Depot?

15 A. Working in the paint department.

16 Q. Is that a sales position?

17 A. Yes.

18 Q. And which Home Depot was that?

19 A. Emeryville, California, across the bay.

20 Q. So did you leave Radio Shack voluntarily or were  
21 you terminated?

22 A. I was terminated.

23 Q. And who told you you were terminated?

24 A. Donna Ocampo.

25 Q. And what did Ms. Ocampo tell you was the reason



1 why you were being terminated?

2 A. Because I signed a document and admitted to  
3 retail -- something about retail. I can't remember.

4 Q. I'm sorry?

5 A. Something about retail. I can't remember --

6 Q. Well, what did the --

7 A. -- what it was, but I was placed under duress by  
8 the loss prevention manager at the Store 3830, and he  
9 told me, "How do you fix this? How do we fix this?  
10 We're missing money from the drawer. How do we fix it?"  
11 So I just -- he said -- and I said, "Well, yes, how do  
12 we fix it, 'cause you're looking to me to fix it. So  
13 how do you fix it?" And he told me to go ahead and  
14 sign -- sign this and pay money back to them that they  
15 were missing, and that's what I did.

16 And then shortly after that, Donna Ocampo called  
17 me and told me I was terminated. But I told her I  
18 didn't do anything wrong.

19 Q. Let me just make sure I understand something.  
20 Who was the loss prevention manager that you were --

21 A. I'm not sure.

22 Q. -- talking to?

23 MS. VERONESE: Let her finish the question.

24 THE WITNESS: Okay.

25 MS. THOMPSON: Q. Was it David Gonsolin?

1 A. I'm not sure. I'm not sure who it was.

2 Q. So how many conversations did you have with the  
3 loss prevention manager?

4 A. Just that one.

5 Q. And where did that conversation take place?

6 A. In the back room.

7 Q. Was anybody else present besides you and the  
8 loss prevention manager?

9 A. No, there was -- there wasn't anybody there in  
10 the back room, but there were people in the store.

11 Q. Okay. Did the loss prevention manager have any  
12 documents with him when he was talking to you?

13 A. No, not that I -- I don't think he did.

14 Q. Tell me, to the best you can recall, what  
15 exactly he said to you during this one discussion you  
16 had with him in the back room.

17 A. He said that they were missing money from the  
18 drawer, and that he was going to have me count the  
19 drawer every time I came in. And there was merchandise  
20 missing, also. And, uh, that there was a -- "How do we  
21 fix this?" So I listened to him, "How do we fix this?"  
22 And so, okay, how can I fix it; what can I do? He said  
23 "Go ahead, sign this," so that's what I did. I signed  
24 it.

25 Q. So he gave you a document to sign?

1 A. Yes, yes.

2 Q. Okay. What did the document say, to the extent  
3 that you remember?

4 A. Well, it was some type of admission of guilt,  
5 you know. I don't know what it was, but it was -- he  
6 told me to -- as he said things, he told me to write  
7 them down. So as he said it, I was writing it down  
8 (indicating).

9 Q. Did you read the document before you signed it?

10 A. Yes, yes.

11 Q. What kinds of things were you writing down?

12 A. Well, what he said, I admit to retail theft and  
13 that I would pay back the, uh -- the, uh, money, you  
14 know, that was missing, you know, \$129 that -- the  
15 cashier's check, you know.

16 Q. So there was \$129 missing from the register?

17 A. I'm not sure if that's where it was missing  
18 from, but it was in merchandise or something like that.

19 Q. So the loss prevention manager told you that  
20 there was either money or merchandise missing that was  
21 valued at \$129?

22 A. Yeah.

23 Q. And was this something that -- had you taken the  
24 money or the merchandise?

25 A. I didn't do anything wrong. I didn't take any

1 A. And.

2 Q. -- "can we fix it?"

3 A. Yes.

4 Q. Is that right?

5 A. (Nods head.)

6 Q. Is that "yes"?

7 A. Yes.

8 Q. Other than -- was he raising his voice at you?

9 A. No.

10 Q. Was he physically abusive in any way?

11 A. No.

12 Q. Did he threaten you in any way?

13 A. In a way, yes.

14 Q. What did he say to threaten you?

15 A. After I signed that document, he told me that I  
16 can be pursued in court of law.

17 Q. So after you had signed the document --

18 A. Yeah.

19 Q. -- he told you that you could be criminally  
20 prosecuted?

21 A. Yes.

22 Q. Okay. Did he say anything else to threaten you  
23 during that conversation?

24 A. No.

25 Q. Did he make any threats to you before you signed

1 the admission of guilt?

2 A. No.

3 Q. Did he use any kind of profanity at you during  
4 this meeting?

5 A. No.

6 Q. Was he polite?

7 A. Yes, he was polite.

8 Q. Was he professional?

9 A. Yes, he was.

10 Q. Did he do anything that you thought was not  
11 appropriate, in terms of his interaction with you?

12 A. Yes, coming into the workplace like that  
13 unannounced and taking me totally by surprise.

14 Q. Okay. Other than that, did he do anything else  
15 that you thought was not appropriate, in terms of his  
16 interaction with you?

17 A. No.

18 Q. Had you ever met this loss prevention manager  
19 before this time?

20 A. No, no, that's the first time I met him.

21 Q. Did you ever actually pay the money back?

22 A. Yes, I did.

23 Q. When did you pay the money back?

24 A. Well, they sent me a letter in the mail, and  
25 then I sent the check to them.

1 A. I didn't do anything wrong.

2 Q. And you told him that?

3 A. Yes.

4 Q. Did you ever make any complaint to anyone at  
5 Radio Shack about being accused of something you felt  
6 you hadn't done?

7 A. No.

8 Q. Is there any reason why you didn't make any  
9 complaint to Radio Shack?

10 A. Because I found a job working for Home Depot  
11 shortly after that.

12 Q. How soon after leaving Radio Shack did you find  
13 the job with Home Depot?

14 A. Two weeks.

15 Q. So after you had this interview with the loss  
16 prevention manager at the store, how soon thereafter  
17 were you terminated?

18 A. The next week.

19 Q. About a week later?

20 A. Yes.

21 Q. So between the time of the interview and the  
22 time you were being told you were terminated, did you  
23 make any kind of complaint to anyone at Radio Shack  
24 about how you were being treated?

25 A. No.

1 Q. Did you happen to keep a copy of the statement  
2 that you signed?

3 A. Yes, I think I have one.

4 Q. You didn't happen to bring that with you today,  
5 did you?

6 A. No, I haven't -- I didn't bring it today.

7 Q. Did you tell Ms. Ocampo or anyone at Radio Shack  
8 that you felt that you had signed the statement under  
9 duress?

10 A. No, no. It was my wife that pointed out to me  
11 that that was under duress.

12 Q. Okay. But just so we're clear, though, your  
13 wife told you that, in her opinion, from what you  
14 described, that you had signed the statement under  
15 duress?

16 A. Yes.

17 Q. But my question, though, was did you ever tell  
18 anyone at Radio Shack that you felt that you had signed  
19 the admission of guilt under duress?

20 A. No.

21 Q. Did you think that your termination was an act  
22 of discrimination against you because of your national  
23 origin?

24 MS. VERONESE: Calls for a legal conclusion.

25 You can answer.

1 MS. THOMPSON: Q. You can answer.

2 A. Come from a background where I'm  
3 Mexican-American, okay. Very few job opportunities  
4 happen for me. Yeah, I do.

5 Q. Okay. You thought you were being discriminated  
6 against by Radio Shack based upon your Mexican-American

7 A. There's --

8 Q. -- national --

9 MS. VERONESE: Just let her finish.

10 MS. THOMPSON: Q. All right. So let me just  
11 ask the question again. I know this is really hard, but  
12 wait until I'm finished, and then I'll make sure you  
13 have a chance to tell me whatever you need to tell me,  
14 okay?

15 A. Okay.

16 Q. So, as you sit here now, it's your opinion or  
17 your belief that your termination was an act of  
18 discrimination against you by Radio Shack, based on upon  
19 your Mexican-American national origin?

20 A. Hmm, not really, but, you know, it's --

21 Q. When you say "not really," what do you mean?

22 A. I mean that Radio Shack has a -- has a history  
23 of terminating people for the littlest things, like  
24 being late, not making your sales quota, things like  
25 that.



1 Q. So --

2 A. So it's -- it's -- it's a high turnaround type  
3 of thing.

4 Q. So you were aware of a lot of people employed by  
5 Radio Shack that were being terminated for various  
6 reasons?

7 A. Oh, yeah. There was a lot of them.

8 Q. Okay. So, again, just focusing on your beliefs,  
9 though, did you believe that Radio Shack was  
10 discriminating against you because you're  
11 Mexican-American?

12 A. No, no.

13 Q. Did you ever hear anyone at Radio Shack make any  
14 derogatory comments about your national origin?

15 A. Yes.

16 Q. Who?

17 A. There was some -- some guys there that worked  
18 there.

19 Q. Some of your coworkers?

20 A. Some of the coworkers, and some of the other  
21 store people you know, at other stores that worked  
22 there, they just made comments, when I was -- but  
23 that's --

24 Q. So Frank -- go ahead.

25 A. But that was -- that was different people there,

1 thought were derogatory about your Mexican-American  
2 national origin?

3 A. Yes.

4 Q. What specifically did he say?

5 A. Uh, let's see. I can't remember.

6 Q. Do you remember any -- any instance where Bruce  
7 made a comment or a joke that you thought was derogatory  
8 towards you because you're Mexican-American?

9 A. Uh, no, I don't.

10 Q. Other than Bruce, can you name any other  
11 employee at Radio Shack that you thought made derogatory  
12 comments about your Mexican-American national origin?

13 A. No.

14 Q. Did you ever complain to Mr. Allen that Bruce  
15 was making jokes that you thought were derogatory to you  
16 based on your national origin?

17 A. No. No.

18 Q. Did you ever complain to human resources at  
19 Radio Shack that anyone at any time was making  
20 derogatory comments about your -- or jokes about your  
21 Mexican-American national origin?

22 A. No.

23 Q. Did you ever hear any Radio Shack employee make  
24 any derogatory comments or jokes about  
25 African-Americans?

1 A. No, I haven't.

2 Q. Did you ever hear any Radio Shack employees ever  
3 make any comments, derogatory comments or jokes, about  
4 older workers at Radio Shack?

5 A. No.

6 Q. When did you first meet Donna Ocampo?

7 A. That was in 2010; she came by the store maybe  
8 three times.

9 Q. Okay. So am I correct, then, in understanding  
10 that you saw Ms. Ocampo, physically, a total of three  
11 times during your employment at Radio Shack?

12 A. Yes.

13 Q. And did you actually speak with Ms. Ocampo on  
14 any of those three occasions?

15 A. When -- no. She -- she was busy doing stuff in  
16 the back room.

17 Q. Okay. So on any of those three occasions, did  
18 you and Ms. Ocampo have any chance to speak to one  
19 another?

20 A. Well, when she was in the back room, I went back  
21 there to get a laptop, and she just mentioned, you know,  
22 that, "Donna doesn't like Frank," you know, like that to  
23 me. I was like, okay. So --

24 Q. Wait a --

25 A. It was just a comment she made. That's all.

1 Q. Did you report that incident to anyone?

2 A. No.

3 Q. Did you ever tell Mr. Allen that Donna Ocampo  
4 had made the statement, quote, "Donna don't like Frank"?

5 A. No, I didn't.

6 Q. Did you ever have any -- other than hearing that  
7 one comment on that one occasion, did you ever have any  
8 actual conversations with Ms. Ocampo at any time during  
9 your employment?

10 A. No.

11 Q. Did you ever hear Ms. Ocampo make any statements  
12 about Mr. Allen's race?

13 A. No.

14 Q. Did you ever hear Ms. Ocampo make any statements  
15 about Mr. Allen's age?

16 A. No.

17 Q. Did you ever hear Ms. Ocampo make any derogatory  
18 comments about African-Americans generally?

19 A. No.

20 Q. Did you ever hear Ms. Ocampo make any derogatory  
21 comments about older workers at Radio Shack?

22 A. No.

23 Q. Did you ever hear the loss prevention manager  
24 that you met with, as you described earlier, make any  
25 derogatory comments about African-Americans?

PATRICIA CALLAHAN REPORTING

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1 A. No.

2 Q. Or about Mr. Allen, any derogatory comments by  
3 the loss prevention manager about Mr. Allen?

4 A. No.

5 Q. Did the loss prevention manager make any  
6 derogatory comments about older workers at Radio Shack?

7 A. No.

8 Q. Now, you mentioned that you had a phone  
9 conversation with Ms. Ocampo when she terminated your  
10 employment, right?

11 A. Yes.

12 Q. Other than that occasion when she told you your  
13 employment was being terminated, did you ever have any  
14 other phone conversations with Ms. Ocampo?

15 A. No.

16 Q. Have you told me everything that you can  
17 remember about -- well, let me go back. Let's talk  
18 about the phone conversation when you were terminated by  
19 Ms. Ocampo. Can you tell me everything that she said to  
20 you and you said to her during that phone conversation?

21 A. Well, she called and she told me that I was  
22 being terminated. And I told her, I didn't do anything  
23 wrong." And she goes, "I know. We can't see anything  
24 on the video camera that you did do anything wrong."

25 Q. Did she say anything else during that

1 conversation?

2 A. No, that was pretty much it.

3 Q. Did you say anything else during that  
4 conversation?

5 A. No.

6 Q. So you've told me now everything you can  
7 remember --

8 A. Yes.

9 Q. -- about the termination conversation between  
10 you and Ms. Ocampo?

11 A. Yes, that's all I know. That's all I can  
12 remember.

13 Q. Do you know somebody named David Gonsolin at  
14 Radio Shack?

15 A. I can't remember that name.

16 Q. Okay. How about Basem Abef, have you met anyone  
17 named Basem Abef?

18 A. Basim?

19 Q. No, Basem Abef.

20 A. No.

21 Q. How about Greg Patakas, have you met anyone  
22 named Greg Patakas?

23 A. No, I can't remember.

24 Q. How many registers were there at Frank Allen's  
25 store in 2010?

1 Q. Okay. So that was one occasion. What was the  
2 second occasion, what was stolen --

3 A. It was --

4 Q. -- from 3830 --

5 MS. VERONESE: Let her finish.

6 MS. THOMPSON: Q. -- in 2010?

7 A. It was a digital CD player.

8 Q. Okay. And what was stolen from Alex Basher's  
9 store on the one occasion you remember?

10 A. A laptop.

11 Q. Were you aware of any thefts of cash at 3830 at  
12 any time you worked there?

13 A. No.

14 Q. Were you aware of the theft of cash at any time  
15 at Alex Basher's store?

16 A. No.

17 Q. Did Alex Basher, to your knowledge -- where did  
18 Alex Basher keep his cash; was it in a cash register  
19 drawer?

20 A. Yes.

21 Q. Other than the cash register drawer, did  
22 Alex Basher keep his cash anywhere else?

23 A. No, he didn't.

24 Q. What about at any other stores that you worked  
25 in, did you ever see cash being kept somewhere other

1 than the cash register drawer at any other store that  
2 you worked?

3 A. No.

4 Q. You testified that there were two cash registers  
5 at Store 3830 in 2010 when you went back to Mr. Allen's  
6 store, correct?

7 A. Yes.

8 Q. And just so we're clear, when you went back to  
9 the store, the entire time that you were there in 2010,  
10 the store was located at 5th and Market?

11 A. Yes.

12 Q. Okay. And the two cash registers, was there  
13 room in the cash register drawers for the cash that the  
14 customers would use to pay for merchandise?

15 A. Yes.

16 Q. So there was room for the bills, correct, in the  
17 cash register drawer?

18 A. Yes.

19 Q. And there was also room for the coins?

20 A. Yes.

21 Q. Did you ever have any occasion where you  
22 couldn't fit any of the money into the cash register?

23 A. No.

24 Q. Did anyone at the store ever tell you that they  
25 couldn't fit money into the cash register drawers?



1 A. No.

2 Q. Was that something that you ever discussed with  
3 Mr. Allen, that money couldn't -- there wasn't enough  
4 room in the cash register drawers for the bills and  
5 coins?

6 A. No.

7 Q. So, were you aware of a practice of Mr. Allen's  
8 of keeping some cash in the manager's desk drawer in the  
9 back office?

10 A. Yes.

11 Q. Did you have access to that cash that was kept  
12 in the back?

13 A. No. It was always locked.

14 Q. Did you have a key?

15 A. I was a keyholder sometimes. I didn't have  
16 access to it all the time.

17 Q. Did you have a key to the manager's desk drawer  
18 in 2010, while you were working at Mr. Allen's store?

19 A. No.

20 Q. So in 2010, then, when you were working at store  
21 3830 under Mr. Allen, it's your testimony that you did  
22 not have a key to the manager's desk drawer at all,  
23 right?

24 A. No, they -- they would swap the keys out. When  
25 I closed, they would give me the keys then.

1 A. Yes.

2 MS. VERONESE: Let her finish the question.

3 THE WITNESS: Yes.

4 MS. THOMPSON: Q. All right. Did you ever  
5 discuss -- other than talking with Mr. Allen about this  
6 practice, did you ever talk with any other manager in  
7 Radio Shack about the practice of keeping money in the  
8 manager's desk drawer?

9 A. No.

10 Q. Did you ever speak with Hani Alzaghari about  
11 keeping money in the manager's desk drawer?

12 A. No.

13 Q. Did you ever hear Mr. Alzaghari talk to  
14 Frank Allen about keeping money in the manager's desk  
15 drawer?

16 A. No.

17 Q. Did Mr. Alzaghari ever tell you that it was okay  
18 to keep money in the manager's desk drawer?

19 A. Huh-uh.

20 Q. How many times did you see Mr. Alzaghari in  
21 Frank Allen's store? How often did that happen?

22 A. He would come by maybe quarterly, on a quarterly  
23 basis.

24 Q. Okay. And he would do a store visit once a  
25 quarter?

1 A. Yes.

2 Q. Okay. And would you speak to Mr. Alzaghari on  
3 those occasions?

4 A. No. He -- he would -- he came to see Frank.

5 Q. Okay. So you never actually spoke with  
6 Mr. Alzaghari; is that right?

7 A. Not very often. He would just say hi, and  
8 that's about it.

9 Q. Did you ever actually see Mr. Alzaghari in the  
10 back room at Mr. Allen's store on the occasion of any of  
11 those visits?

12 A. No. No. It was usually just Frank and Hani  
13 back there.

14 Q. Okay. And were you ever part of any of their  
15 conversations in the back room?

16 A. No.

17 Q. Were you ever present when Mr. Alzaghari and  
18 Mr. Allen were in the back room?

19 A. Yes, I was out -- would be out on the sales  
20 floor.

21 Q. I understand you would be out on the sales  
22 floor, and Mr. Alzaghari and Mr. Allen would be meeting  
23 in the manager's office?

24 A. Yes.

25 Q. Okay. Did you ever happen to go back there and

1 participate in any conversations with them?

2 A. No.

3 Q. Did you ever actually physically go into the  
4 back office while Mr. Alzaghari and Mr. Allen were  
5 there, that you can think of?

6 A. Just to get merchandise. No, that was it.

7 Q. So the only time that you would go in the back  
8 room when Mr. Alzaghari and Mr. Allen were there was to  
9 get merchandise; is that right?

10 A. Yes.

11 Q. And on those occasions when you went back to get  
12 merchandise when Mr. Alzaghari was there, did you happen  
13 to speak with him?

14 A. Other than saying hi, no. It's ....

15 Q. Did you ever ask Mr. Alzaghari if it was okay  
16 for you -- for the store to be keeping money in the back  
17 as opposed to in the cash register?

18 A. No.

19 Q. Did that subject ever come up with --

20 A. No.

21 Q. Did you ever talk with Ms. Ocampo about keeping  
22 money in the back?

23 A. No.

24 Q. Did you ever talk with Amy Tam about keeping  
25 money in the back?

1 A. No.

2 Q. Do you have any basis for believing that  
3 Mr. Alzaghari knew that the store's practice was to keep  
4 cash in the manager's desk drawer rather than in the  
5 cash registers?

6 A. Yes, because that's, like -- that's the first  
7 store that I -- or the second store that I was working  
8 at, and that's -- like I -- when I started there,  
9 working there, that's the way they -- that's where they  
10 kept it.

11 Q. Okay.

12 A. I thought Hani was okay with it.

13 Q. What makes you think Hani was okay with it?

14 A. Because that's the way it was.

15 Q. Okay. Other than your belief that that's the  
16 way it was, do you have any other reason to believe that  
17 Hani was okay with the store keeping money in the store  
18 manager's desk, rather than in the cash registers?

19 A. Yeah, I thought he -- it was okay.

20 Q. Well, I understand you thought that. I'm trying  
21 to find out what makes you think Hani thought it was  
22 okay. You never talked --

23 A. I don't know.

24 Q. -- to him about it, right?

25 A. No.

1 Q. Okay. So what's the basis for your belief that  
2 Hani was okay with that practice? Do you have any facts  
3 to back that up?

4 A. No.

5 Q. So you're basing it just on your understanding  
6 that that's the way it was always done, right?

7 A. Yes, that -- as far as I know.

8 Q. And so because you thought that's the way it was  
9 always done, you're just assuming that Mr. Alzaghari  
10 knew it, right?

11 A. Yes.

12 Q. But as you sit here now, you have no reason to  
13 believe that Hani actually did know it, do you?

14 A. I don't know.

15 Q. Now, were you ever present in the store when  
16 Ms. Ocampo came by after Mr. Allen had already left?

17 MS. VERONESE: After he was terminated or left  
18 for the day?

19 MS. THOMPSON: I -- good clarification. Let me  
20 ask the question again.

21 Q. Were you ever present in the store while  
22 Mr. Allen was the manager, but he had already left for  
23 the day, when Ms. Ocampo came into the store?

24 A. Yes.

25 Q. How many times did that happen, where Ms. Ocampo

1 A. I'm not sure.

2 MS. VERONESE: Calls for -- yeah, calls for  
3 speculation.

4 MS. THOMPSON: Q. Well, was there any kind of  
5 group meeting or discussion with either Ms. Ocampo or  
6 Ms. Tam about the inventory?

7 A. No. They just said, "We're having inventory."

8 Q. Who said that?

9 A. Tam. Amy Tam.

10 Q. And who was present when she said that?

11 A. Everybody was present. We had meetings, so --

12 Q. Okay. So Ms. Tam had a meeting, and she talked  
13 about the inventory; is that right?

14 A. Yes, and she said it was mandatory and everybody  
15 had to come.

16 Q. So at this meeting were you and all the store  
17 associates, right?

18 A. Um-hum.

19 Q. Is that "yes"?

20 A. Yes.

21 Q. And Ms. Tam told you that you all had to attend  
22 the -- or participate in the inventory; is that right?

23 A. Yes.

24 Q. Now, had you ever met Amy Tan before she became  
25 the store manager?

1 A. No.

2 Q. So the first time you ever saw Ms. Tam was after  
3 Mr. Allen had been terminated?

4 A. Yes.

5 Q. Have you ever heard anything about Ms. Tam  
6 before she became the store manager at 3830?

7 A. I mean, I heard that she was at another store,  
8 as the manager over there.

9 THE REPORTER: I'm sorry, did you say "never  
10 heard" or "I heard"?

11 MS. THOMPSON: Q. I thought you said you heard  
12 that Amy Tam was at another store --

13 A. Yeah.

14 Q. -- before she came to 3830 --

15 A. Yes.

16 Q. -- is that right?

17 A. Yes.

18 Q. Other than hearing that Ms. Tam was at another  
19 store, had you heard anything at all about her before  
20 she came to your store, 3830?

21 A. That she was working under Basim at his store on  
22 Clement, I believe it was.

23 Q. Who is Basim?

24 A. Basim is the first -- one of the many assistant  
25 managers when I went through the assistant managers



1 and I saw Amy Tam there. It was a group photo, you  
2 know, of them. Or Basim brought it by the store and  
3 showed me.

4 Q. By the way, I meant to ask you this before. Do  
5 you think that Radio Shack's decision to terminate your  
6 employment had anything to do with your age?

7 A. No.

8 Q. Do you have any opinion or belief as to why  
9 Radio Shack terminated your employment?

10 A. No.

11 Q. All right. So other than -- I understand from  
12 what you're saying -- and correct me if I'm wrong --  
13 that because at some point you'd seen a picture of  
14 Amy Tam and Basim, you drew the conclusion that Amy Tam  
15 was an assistant manager working for Basim at Clement  
16 Street; is that right?

17 A. Yes.

18 Q. Now, how did Amy Tam treat you as the store  
19 manager? Did she -- what was your impression of her as  
20 the store manager?

21 A. She was more interested in cell phone sales and  
22 the sales part of everything. And very aggressive on  
23 the sales floor.

24 Q. So Ms. Tam was more aggressive than Mr. Allen on  
25 the sales floor?

1       there -- 'cause I hadn't been there very long, okay; I  
2       hadn't been there very long --

3       Q.       Well, how --

4       A.       -- Amy Tam came in. Then that incident happened  
5       on a Friday; they came in -- Donna Ocampo and the  
6       regional matter came in, went into the back room, with  
7       me and Rosetta closing the store, and the next thing I  
8       know, they say the money was back in the drawer and that  
9       Frank was terminated the following week.

10      Q.       Who told you that?

11      A.       That was -- that was Bruce told me.

12      Q.       Okay. Who told you that Mr. Allen had been  
13      terminated?

14      A.       Bruce.

15      Q.       And did Bruce tell you why Mr. Allen had been  
16      terminated?

17      A.       Because Rosetta left the drawer unlocked in the  
18      back where the money was kept.

19      Q.       Did you ever talk with Donna Ocampo about why  
20      Mr. Allen had been terminated?

21      A.       No.

22      Q.       Did you ever talk with Amy Tam about Mr. Allen's  
23      termination?

24      A.       No.

25      Q.       Okay. So let's go back to this transfer

1 Ms. Tam discriminated against you in any way because of  
2 your Mexican-American national origin?

3 A. No.

4 Q. Do you know of any other older employees, or  
5 elderly, as you've used the term, that were terminated  
6 by Ms. Tam at any time?

7 A. No.

8 Q. Did you ever make any complaint to human  
9 resources that you thought Ms. Tam was writing you up  
10 because -- in your opinion, because of your age?

11 A. No.

12 Q. All right. Did you ever have any conversations  
13 with Ms. Tam about keeping money in the store manager's  
14 desk drawer?

15 A. No.

16 Q. When Ms. Tam was there, do you know one way or  
17 the other whether that practice continued, in terms of  
18 having money in the back, or did that --

19 A. No, it stopped.

20 Q. Did it stop as soon as Ms. Tam became the store  
21 manager?

22 A. Yes.

23 Q. So the entire time that Ms. Tam was the store  
24 manager, the required practice was that all cash was to  
25 be kept in the cash register; is that right?

1 A. Yes.

2 MS. VERONESE: While you were there.

3 THE WITNESS: Yeah. Yes.

4 MS. THOMPSON: Q. I'm sorry.

5 A. Yes.

6 Q. Okay.

7 A. While I was there.

8 Q. Yes, that's all I'm asking about, is while you  
9 were there.

10 A. Um-hum.

11 Q. Is that "yes"?

12 A. Yes.

13 Q. And I think I asked you this before, but of all  
14 the other stores that you had worked in for Radio Shack,  
15 did you ever know of any other store manager that kept  
16 money in the store manager's desk drawer?

17 A. No.

18 Q. Do you know who made the decision to terminate  
19 your employment?

20 A. Donna Ocampo made the final decision.

21 Q. Who told you that?

22 A. Amy. Amy told me that Donna would call me.

23 Q. Okay.

24 A. And then Donna called me.

25 Q. So what conversation did you have with Amy about

CERTIFICATE

I, the undersigned, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was first duly sworn to testify to the truth, the whole truth, and nothing but the truth in the within-entitled cause; that said deposition was taken at the time and place therein stated; that the testimony of said witness was reported by me, a disinterested person, and was thereafter transcribed under my direction into typewriting; that the foregoing is a full, complete and true record of said testimony; and that the witness was given an opportunity to read and, if necessary, correct said deposition and to subscribe to the same.

I further certify that I am not of counsel or attorney for either or any of the parties in the foregoing deposition and caption named, nor in any way interested in the outcome of the cause named in said caption. Executed this 22nd day of October, 2012.

  
CERTIFIED SHORTHAND REPORTER  
NO. 5697

EXHIBIT 10

Allen vs. Radio Shack Shaan Smith

10-23-12

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3 SAN FRANCISCO DIVISION

4 --oOo--

5 FRANK ALLEN,

6 Plaintiff,

7 vs.

No. CV 11-03110 WHA

8 RADIO SHACK CORPORATION, and  
9 Does 1-20, Inclusive,

10 Defendants.  
11 \_\_\_\_\_/

12  
13  
14  
15 DEPOSITION OF SHAAN SMITH

16 Tuesday, October 23, 2012  
17  
18  
19

20 REPORTED BY: DEBRA J. SKAGGS, CSR 7857  
21  
22

23 DE SOUZA & ASSOCIATES  
24 Certified Shorthand Reporters  
25 P.O BOX 1675  
San Mateo, California 94401  
(650) 341-2671 desouzacr@att.net

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1 ---oOo---

2 BE IT REMEMBERED that, pursuant to notice, and  
3 on Tuesday, the 23rd day of October 2012, commencing at  
4 the hour of 10:20 a.m., thereof, at the Law Offices of  
5 JOSEPH L. ALIOTO AND ANGELA ALIOTO, 700 Montgomery  
6 Street, San Francisco, California, before me,  
7 DEBRA J. SKAGGS, CSR No. 7857, a Certified Shorthand  
8 Reporter

9 --oOo--

## 10 EXAMINATION

11 MS. ALIOTO: Q. Okay. Can you state your  
12 name for the record and spell it.

13 A. Shaan Smith. S-H-A-A-N. S-M-I-T-H.

14 (Off the record: 10:20 a.m. to 10:20 a.m.)

15 MS. ALIOTO: Okay. Hi.

16 THE WITNESS: Hi.

17 MS. ALIOTO: Q. My name is Angela Alioto  
18 and I represent Frank Allen, the Plaintiff in this  
19 action.

20 Have you ever had your deposition taken  
21 before?

22 A. Yes.

23 Q. When was the last time you had your deposition  
24 taken?

25 MS. THOMPSON: Your best estimate.

6



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1 California.

2 Q. Okay.

3 A. Then that's when I went to Radio Shack in  
4 October.

5 Q. So October of 2009 you went to Radio Shack.

6 A. Uh-huh.

7 Q. Okay. How did you find out about the job at  
8 Radio Shack?

9 A. Posting. Job posting.

10 Q. On the Internet?

11 A. Yes.

12 Q. And what job did you apply for?

13 A. It was -- I started as an area human resources  
14 manager, and then my position, they -- the company  
15 reorged and then that changed.

16 Q. When did the company reorganize?

17 A. The end of 2010. I think it was November of  
18 2010. That's when all of our positions changed.

19 Q. And your prior position of HR manager changed  
20 into what it in November of 2010?

21 A. So we went from area human resources manager  
22 to regional HR manager.

23 Q. You did.

24 A. I did. Along with my counterparts.

25 Q. And so regional HR manager.

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1      Q.            Let me go over -- you're looking at  
2      Exhibit No. 1. Let me go over a couple names with you.

3      A.            I'm sorry. You said you're going to go over a  
4      couple of what?

5      Q.            A couple of names.

6      A.            Oh, okay.

7      Q.            Okay. Do you recall the first time -- well,  
8      did you ever meet Frank Allen?

9      A.            Not that I can recall.

10     Q.            Okay. Did you ever talk to Frank Allen?

11     A.            Yes.

12     Q.            Okay. Do you recall the first time you spoke  
13     to Frank Allen?

14     A.            I reviewed my notes, so I don't remember the  
15     date. But from my understanding, it was around his  
16     termination.

17     Q.            Okay. Do you recall speaking to him before  
18     the termination at all?

19     A.            I don't recall.

20     Q.            So that I'm clear, are you testifying that the  
21     first time you ever talked to Frank Allen was around  
22     April of 2010 when he was terminated?

23     A.            Again, I don't recall.

24     Q.            You don't know.

25                   Have you ever been to Store 3830 during that

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1 time period of 2010?

2 A. I can't specifically say I can. I don't know.  
3 I visited a lot of different stores.

4 Q. You did?

5 A. Uh-huh.

6 Q. Okay. And what was your job when you would be  
7 visiting stores?

8 A. Just familiarizing myself with the field. It  
9 wasn't a requirement.

10 Q. As the HR -- again, what was your proper title  
11 at this time in April of 2010?

12 A. April of 2010 it was the area HR manager.

13 Q. Area.

14 So it was before the reorganization --

15 A. Correct.

16 Q. -- of November 20 --

17 A. '10.

18 Q. '10.

19 A. Correct.

20 Q. Was there any reorganizing going on from  
21 November of 2009 to April of 2010 that you recall?

22 MS. THOMPSON: Objection. Vague and  
23 ambiguous.

24 THE WITNESS: From November of '09?

25 MS. ALIOTO: Yeah.

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1 THE WITNESS: Not that -- oh, I can't -- I  
2 don't know. My position was new, but I'm not sure if  
3 that was a part of a reorg or anything.

4 MS. ALIOTO: Q. Oh, you mean you didn't  
5 replace anybody; that was a brand new position?

6 A. Correct.

7 Q. Okay. And that's area HR?

8 A. Correct.

9 Q. So let me understand. Where did you  
10 physically go to work?

11 A. Where?

12 Q. As area HR in January, February, March, and  
13 April of 2010.

14 A. I was in San Ramon the whole time of my  
15 employment at Radio Shack.

16 Q. Okay. Describe to me your office of HR in  
17 San Ramon? How many HR reps were there at this time  
18 period, January to April of 2010.

19 A. Technically it was myself and Donetta.

20 Q. Okay.

21 A. And she went out on leave, so it was just me  
22 by myself.

23 Q. Okay. And then did Christopher and Kelly join  
24 you?

25 A. They were in different locations, but they did

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1 vague and ambiguous, and lacks foundation.

2 Can you repeat that question, please.

3 MS. ALIOTO: Q. Yeah, I'm going to fix  
4 all the things that she says were wrong with it.

5 Did you ever meet with Mr. Pattakos at the end  
6 of 2009?

7 A. Did I ever meet with him?

8 Q. Right.

9 A. No.

10 Q. Did he ever -- did he call you on the phone in  
11 2000 -- at the end of 2009 when he took Tom's position?

12 A. Did he call me?

13 Q. Uh-huh.

14 A. Not that I -- I don't think so.

15 Q. Okay. Do you recall ever meeting him or  
16 talking to him or emailing him in the year 2009? "Him"  
17 being Pattakos.

18 A. I met him when he came to San Ramon.

19 Q. And when did he come to San Ramon?

20 A. Again, I don't remember the month. It was  
21 when Tom left.

22 Q. And Donetta was still there?

23 A. Correct.

24 Q. Okay. Now, Tom is loss prevention, right?

25 A. No. He was the area vice president.

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1 went?

2 MS. THOMPSON: Well, objection. Lacks  
3 foundation.

4 MS. ALIOTO: Q. Do you recall what she  
5 said how her store visits went?

6 MS. THOMPSON: Assumes facts.

7 Okay. Never mind. Go ahead.

8 THE WITNESS: She had a lot of store visits.  
9 So she would tell me how some -- she would tell me how  
10 some of them went, you know.

11 MS. ALIOTO: Q. Okay. In that you mean  
12 she would have a lot of store visits with Pattakos.

13 A. No. She had a lot of store visits not  
14 specifically -- some with Pattakos when he was there and  
15 then she did a lot with the regional directors.

16 Q. Okay.

17 A. I think the DMs too.

18 Q. The DMs.

19 A. District managers.

20 Q. Managers, yeah.

21 Okay. So let me ask you. Do you know  
22 Donna Ocampo?

23 A. I do.

24 Q. When you were there, what position was  
25 Donna Ocampo in?

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1        A.            She was in two different positions. She was a  
2        district manager and then she was the interim regional  
3        RSD. Regional sales director.

4        Q.            Do you remember Donna Ocampo saying anything  
5        to you about Mr. Pattakos?

6        A.            No, not that I can recall.

7        Q.            Do you remember -- do you know Amy Tam?

8        A.            Amy Tam?

9        Q.            Uh-huh.

10       A.            I believe she was a store manager. Or  
11       assistant store manager. One of them.

12       Q.            Did you participate at all in the decision to  
13       move Amy Tam to 3830?

14       A.            I don't believe so.

15       Q.            Did you ever work one-on-one with Ocampo in  
16       changing people from store to store or --

17                   MS. THOMPSON: Objection. Vague and  
18       ambiguous.

19                   THE WITNESS: It depended -- depends --  
20       depended on the situation.

21                   MS. ALIOTO: Q. Okay. So has there been  
22       times when you did work with her?

23       A.            If it was -- if HR was involved and, you know,  
24       we were -- if I told her that we need to temporarily  
25       move someone because of an investigation, something like

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1 that, then yeah. Outside of that, no.

2 Q. Okay. So, again, do you recall that there was  
3 a meeting in December of 2009 concerning Mr. Pattakos --

4 MS. THOMPSON: Objection --

5 Q. -- with the different store managers?

6 MS. THOMPSON: Objection. Assumes facts and  
7 lacks foundation.

8 THE WITNESS: Okay. Say that again.

9 MS. ALIOTO: Q. Do you recall if there  
10 was a meeting in December of 2009 concerning  
11 Mr. Pattakos?

12 MS. THOMPSON: Objection. Assumes facts and  
13 lacks foundation.

14 THE WITNESS: Not that I recall.

15 MS. ALIOTO: Q. Do you recall if there  
16 was ever a meeting of the store managers or the  
17 district managers or the regional managers  
18 concerning Mr. Pattakos's behavior?

19 A. Not that I can recall.

20 Q. Okay. So you were never invited to  
21 anything --

22 A. No.

23 Q. -- concerning Mr. Pattakos's behavior?

24 A. No.

25 Q. And did Donna Ocampo ever tell you that there

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1 was a meeting concerning Mr. Pattakos?

2 MS. THOMPSON: Objection. Assumes facts.  
3 Misstates the record.

4 THE WITNESS: I can't recall that.

5 MS. ALIOTO: Q. How about Donetta. Did  
6 she ever mention that there was a meeting concerning  
7 his -- Mr. Pattakos's behavior?

8 MS. THOMPSON: Objection. Assumes facts.  
9 Misstates the record.

10 MS. ALIOTO: Q. Or complaints. A meeting  
11 of general managers or store managers or anybody  
12 complaining about Mr. Pattakos.

13 A. I don't recall a meeting taking place. It  
14 might have, but I don't know.

15 Q. Okay. Bottom line is you weren't invited to  
16 anything.

17 A. Right.

18 Q. Okay. Let's take a look at the Exhibit No. 1  
19 that you have in front of you.

20 A. Uh-huh.

21 Q. Page 5.

22 Would you consider Donna Ocampo to have been a  
23 friend of yours?

24 A. A friend?

25 Q. Uh-huh.

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1      A.            We had a good working relationship but not  
2      outside of work.

3      Q.            So you weren't social outside of work at all?

4      A.            No.

5      Q.            Now, did you ever hear -- in Paragraph 27, it  
6      says,

7                    "Defendant Ocampo told Plaintiff..." -- that  
8                    would be Mr. Allen, "...to set up interviews  
9                    for her and that she would come in and  
10                   interview applicants for the new staff that he,  
11                   Plaintiff, was to terminate because they didn't  
12                   fit the image."

13                   Did Donna Ocampo ever tell you that she wanted  
14                   to change the image at Store 3830?

15      A.            Not that I can recall.

16      Q.            Okay. Would you be involved in hiring new  
17      people for a specific store if a group of people were  
18      let go?

19                   MS. THOMPSON: Objection. Vague and  
20                   ambiguous.

21                   THE WITNESS: As an area HR manager, I was not  
22                   involved in area recruiting.

23                   MS. ALIOTO: Q. Okay. So let me ask you.  
24      Do you recall who worked at 3830 from January to  
25      April of 2010?

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1      A.            No.

2      Q.            Okay. Did you know Rosetta? An employee  
3      named Rosetta?

4      A.            Did I know her or I --

5      Q.            Did you know of her at 3830.

6      A.            Yes.

7      Q.            Okay. Did you know of Victoria at 3830?

8      A.            No.

9      Q.            Did you know of Nabor?

10     A.            No.

11     Q.            No. Did you know Erica?

12     A.            I don't -- no.

13     Q.            Okay. How about Bruce?

14     A.            I don't believe so, no.

15     Q.            Tell me what do you recall about Rosetta?

16     A.            I remember she was one of the store associates  
17     that Donna was talking to on some kind of cash  
18     transaction. She had money in the back of her pocket.

19     Q.            Okay. And did Donna tell you about that?

20     A.            Yes.

21     Q.            Did you get involved at all in that situation?

22     A.            Get involved --

23                MS. THOMPSON: Vague and ambiguous.

24                THE WITNESS: To what extent?

25                MS. ALIOTO: Q. Did you call Rosetta?

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1 (Plaintiff's Exhibit 2 marked  
2 for identification.)

3 (Off the record.)

4 MS. ALIOTO: Q. All right. Is this your  
5 handwriting, Exhibit 2, that's Bates stamped 000266?

6 A. Yes.

7 Q. All right. So can you read it for me? Just  
8 read the whole document.

9 A. Okay. "Talked to Donna April 27, 2010  
10 regarding store manager. Been there for ten  
11 years. She advised that on 3/24 he was given a  
12 final written warning issued on file. He  
13 didn't adhere to the final. District  
14 manager/RSD Aybeth visited the store last  
15 Tuesday regarding \$200 in unprotected  
16 cash -- in unprotected cash."

17 THE REPORTER: I'm sorry, "in unprotected?"

18 THE WITNESS: I'm reading what I said, but I  
19 don't -- "...\$200 in..." -- I don't know how -- "...in  
20 an unprotected cash."

21 It looks like the way that I wrote it here,  
22 that a CAR, which is a Corrective Action Record, was  
23 given. It's there to identify -- so, a corrective  
24 action was given due to his failure to identify more  
25 than \$1000 in the till.

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1 MS. THOMPSON: Wait. In cash.

2 THE WITNESS: In -- I'm sorry. A thousand  
3 dollars in cash in the till.

4 MS. ALIOTO: Q. I'm sorry. The word  
5 after "in cash." What is that?

6 A. It's crossed out. I'm not sure. But after  
7 that it says "in the till."

8 Q. Okay.

9 A. And then sitting in the drawer in the back,  
10 not locked.

11 So the \$200, I think --

12 Q. Okay.

13 A. -- I'm not sure. But basically there was  
14 money in the drawer in the back that wasn't locked.

15 Q. But for right now, just read the words because  
16 I can't read your writing.

17 A. Oh, okay.

18 Q. And then we're going to go back and I'm going  
19 to ask you questions about it.

20 A. Okay.

21 "2. District manager went to talk to sales  
22 associate Rosetta to inquire on the money in  
23 the back. Witness was Basem Aybef."

24 Q. I'm sorry. Where do you see that?

25 A. On the far left. "Witness Basem."

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1 Q. That's "witness."

2 Okay. Thank you.

3 A. So this is her -- this is Donna's discussion  
4 with Rosetta. She said,

5 "This is where we put the extra change. This  
6 is where we always put it. Then she pulled out  
7 \$1100 from her back pocket. District manager  
8 took that, then they went to the back to do the  
9 midday."

10 And then that was the DM -- District  
11 Manager -- RSD, and sales associate that went into the  
12 back.

13 Q. Who is the DM?

14 A. Donna.

15 Q. And who is the RSD?

16 A. Basem.

17 Q. Okay.

18 A. "DM told sales associates go and make the  
19 drop. She verbally counts..." -- oh. "She  
20 verbally counseled it. HR..." -- so that's  
21 me -- "...advised Donna to document it."  
22 And then "DM, Donna, termed today, April 27th.  
23 Store manager very irate. Said DM shady,  
24 thanks for freeing a slave."

25 Q. Okay. Now, it says "DM terminated today

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1 4/27," but you don't say who.

2 A. We were talking about the store manager.

3 Q. So let's go back to the beginning.

4 Okay. This is regarding store manager, ten  
5 years.

6 Who told you he had been there ten years?

7 A. Donna.

8 Q. Did you look up and see if that was true? Did  
9 you investigate any of the things she told you?

10 A. I'm not sure.

11 Q. On April 27th of 2010, do you have any idea  
12 how many years he really had been there?

13 MS. THOMPSON: Well, objection. Assumes  
14 facts, misstates the document.

15 MS. ALIOTO: No, I want to know what you knew.

16 MS. THOMPSON: Well, to the extent you can  
17 remember.

18 THE WITNESS: Yeah, I'm not sure what I did.

19 MS. ALIOTO: Q. Okay. But do you know of  
20 any -- do you know whether or not the ten years is  
21 correct?

22 MS. THOMPSON: Objection. Vague and  
23 ambiguous.

24 "Correct" as to what?

25 MS. ALIOTO: Correct as to the time that the

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1 store manager had actually worked there.

2 MS. THOMPSON: Well, see, that's the problem  
3 I'm having. It doesn't say that he worked at  
4 Radio Shack ten years, it says he was a store manager for  
5 ten years.

6 MS. ALIOTO: She just trans -- okay --

7 MS. THOMPSON: Well, I don't even know that  
8 that's right. I have no idea.

9 MS. ALIOTO: Yeah, it isn't.

10 MS. THOMPSON: Well I don't know, but I think  
11 you're -- well, I'm just objecting.

12 MS. ALIOTO: Q. Here is my point, okay?  
13 Because, yeah, I really appreciate your lawyer but I  
14 can't spend time talking to lawyers.

15 In that second line there, it says "store  
16 manager, ten years." So is it your interpretation that  
17 he was store manager for ten years?

18 MS. THOMPSON: Well --

19 Q. Or was it --

20 THE WITNESS: Not necessarily.

21 Q. -- that's what Donna told you?

22 A. Again, this is a conversation that happened  
23 over two years ago.

24 Q. Okay, but, are you writing down what Donna  
25 told you?

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1      A.            I'm writing down, but the way that I  
2      write -- I mean I can't remember what Donna exactly told  
3      me.

4      Q.            Okay. Did anybody verify the man worked there  
5      for ten years?

6      A.            I don't recall.

7      Q.            Okay. Next sentence. I still can't read the  
8      second -- finally something issued on file.

9      A.            "A final written warning issued on file."

10     Q.            Okay. I'm sorry. Where do you see "written  
11     warning?"

12     A.            WW.

13     Q.            Okay. So WW is written warning.

14                "Final written warning issued on file."

15                Do you know -- is that 3/24?

16                You're saying there was a final written  
17     warning written on 3/24?

18     A.            That's what it looks like.

19                MS. ALIOTO: Okay. Let's introduce as No. 3,  
20     the alleged final written warning, a Corrective Action  
21     Record.

22                                (Plaintiff's Exhibit 3 marked  
23                                for identification.)

24                MS. ALIOTO: Q. Before we go back to the  
25     document that's No. 2, Exhibit No. 2. What are

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1 these notes?

2 A. What do you mean what are they?

3 Q. Are they a telephone conversation with Donna?  
4 What are they?

5 A. I don't recall. It might have been a  
6 telephone, it might have been in person, I'm not sure.

7 Q. But it's a conversation with Donna, right?

8 A. Yes.

9 Q. All right. So you have final written warning.  
10 Can you take a look at Exhibit No. 3.

11 A. Uh-huh.

12 Q. It's the corrective action of March 23rd.

13 A. Uh-huh.

14 Q. Okay. Do you see anywhere on here where this  
15 says "final?"

16 MS. THOMPSON: Well, object to the extent the  
17 document speaks for itself.

18 THE WITNESS: (Pause for review.)

19 Restate the question again.

20 MS. ALIOTO: Q. Do you see anywhere on  
21 this document, Exhibit No. 3, Corrective Action  
22 Record of March 23rd, 2010, where it says "final?"

23 A. No.

24 Q. Okay. Do you know at this time whether or not  
25 there was a progressive disciplinary process in place at

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1 Radio Shack?

2 A. If there --

3 MS. THOMPSON: Objection. Vague and  
4 ambiguous.

5 THE WITNESS: Do I know -- say that again.

6 (Record read by the Reporter as follows:

7 "Q. Okay. Do you know at this time  
8 whether or not there was a progressive  
9 disciplinary process in place at Radio  
10 Shack?")

11 THE WITNESS: Yeah, there was a progressive  
12 disciplinary process.

13 MS. ALIOTO: Q. Okay. Can you tell me  
14 what the progressive disciplinary process was?

15 A. I mean it just really depended on -- we  
16 weren't -- the company is not bound by the progressive  
17 discipline. It really depends on the infraction. So,  
18 it wouldn't be progressive if certain things happened.  
19 You can go, you know, from zero to term depending on  
20 what the infraction was, so.

21 Q. And where is this policy located, if anywhere?

22 A. I can't -- I don't remember.

23 Q. Where did you learn about it?

24 A. Could have been online, could have been from  
25 Donetta.

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1 Q. Okay. What --

2 A. Training. I'm not -- I don't specifically  
3 remember.

4 Q. In your mind, as the area HR  
5 person -- actually at this point of the game in April of  
6 2010, you are the regional, correct?

7 A. No.

8 Q. What was your job title in April of 2010?

9 A. Area.

10 Q. Okay. Area.

11 So what was your understanding of the  
12 progressive disciplinary process at that time?

13 A. Again, it just depended on the infraction.

14 Q. Okay. But what's the process?

15 A. We weren't -- the company wasn't bound by  
16 certain steps, so it just depends on what the  
17 infractions were.

18 Q. I understand that. What was your  
19 understanding of the process? What were the steps?

20 A. Okay, again, that is my understanding of it.

21 Q. Okay.

22 A. Depends on what the infractions were.

23 Q. All right. When you put down -- are you  
24 saying -- as you sit here today, do you know if there is  
25 a specific policy that states someone gets spoken to, an

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1 Exhibit No. 2 did you call it a final written warning?

2 Is that what Donna told you?

3 A. Based on this --

4 Q. Yes.

5 A. -- more than likely.

6 Q. Okay. Then it says, "He didn't adhere to  
7 final."

8 When she told you that, did you ask her what  
9 she meant?

10 A. I don't recall.

11 Q. But you are saying that the final was written  
12 on March 24th and you're writing this a month and three  
13 days later, correct?

14 A. I'm writing, yeah, what is on this paper, yes.

15 Q. Okay. Let's address the \$200 in unprotected  
16 cash drawer.

17 She told you that? Donna told you that?

18 A. I'm assuming.

19 Q. Okay. Did you investigate it?

20 A. I don't think so.

21 Q. Do you know of any high volume stores that are  
22 allowed to keep petty cash in the back drawers?

23 A. I don't recall.

24 Q. When she told you that they visited the store  
25 and there was \$200 in unprotected cash, does that mean

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1 cash drawer?

2 A. Cash in the till.

3 Q. No, no, no. We're up at 200.

4 A. Yeah.

5 Q. Okay. "\$200 in an unprotected cash."

6 Is that just in unprotected cash? Did you  
7 know where the unprotected cash was?

8 A. I don't recall.

9 Q. Okay. Next sentence.

10 "Corrective action due to failure to identify  
11 more than a thousand in cash in the till."

12 Okay. Who failed to identify more than a  
13 thousand in cash in the till?

14 A. Oh. His failure to identify. So we're  
15 probably talking about the store manager.

16 Q. Okay. What's "in the till" mean?

17 What does "in the till" mean?

18 A. I don't remember what till. I think it means  
19 cash -- I'm not sure. I can't remember what till means.

20 Q. Okay. So when it says, "His failure to  
21 identify more than a thousand dollars in cash in the  
22 till," do you mean the cash register or what do you  
23 mean?

24 A. Again, I don't remember.

25 Q. Okay. You don't know.

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1 Did you ask Donna -- did Donna tell you this,  
2 that he failed to identify more than a thousand in cash  
3 in the till?

4 A. It looks like she did.

5 Q. Okay. Did you ask her what she meant?

6 A. I don't recall.

7 Q. Okay. Next one.

8 "Sitting in the drawer in the back not  
9 locked."

10 A. I think that might be related to the 200.

11 Q. Right.

12 A. I don't -- I don't know. Just the way that  
13 it's written here, it looks like it would have been  
14 related to that.

15 Q. And did you investigate that issue at all,  
16 whether or not there was actually \$200 sitting in the  
17 back not locked?

18 A. I know that Donna sent me some pictures, so.

19 Q. Pictures of a drawer?

20 A. Uh-huh. Yes.

21 Q. Did you investigate it?

22 MS. THOMPSON: Objection. Vague and  
23 ambiguous.

24 MS. ALIOTO: Q. Did you call Frank and  
25 say, "Do you have 200 in the back drawer, and if you

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1 did, why did you?"

2 A. No.

3 Q. Okay. Next sentence.

4 "DM went to talk..." --

5 Is that what that is? TT - to talk.

6 A. Yes. Uh-huh.

7 Q. "...to sales assistant Rosetta to inquire on  
8 money in the back."

9 A. Correct.

10 Q. Okay. "She said this is where we put the  
11 extra change."

12 And on the side here it says "Witness Basem."  
13 What is Basem witness?

14 A. I probably asked her who all was there when  
15 she was talking with Rosetta.

16 Q. Okay. So Donna tells you that just Basem and  
17 she are doing this, right?

18 A. Correct.

19 Q. Put it -- I'm sorry. Extra change dash this?

20 A. "This is where we always put it."

21 Q. Is where we always put it.

22 "Then she pulled out 1100 from her back  
23 pocket."

24 Did you do any personal investigation of  
25 whether or not Rosetta actually pulled 1100 out of her

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1 pocket?

2 A. No.

3 Q. DM took that -- oh, boy. DM took that  
4 they -- that then they went back to the -- I'm sorry.

5 A. "Went back to do the midday."

6 Q. DM did what?

7 A. "DM took that, then they went to the back  
8 to do the midday."

9 Q. Took that. Meaning took the thousand dollars?

10 A. Yes.

11 Q. The 1100?

12 A. Yes.

13 Q. Okay. And then they went back to do  
14 the -- what is the midday?

15 A. I think that's some -- I don't know exactly  
16 what time, but they basically take a certain amount of  
17 money, or -- I don't know exactly how much money,  
18 but -- or what -- I don't know if they have to do a  
19 midday every day. But I know they take a certain amount  
20 of money from the store and then do a drop deposit at the  
21 bank.

22 Q. Who is "they?"

23 A. Whoever works at the store.

24 Q. Okay. So whoever works at the store --

25 A. Store managers, keyholder. I'm not exactly

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1 sure who does it, but a store employee.

2 Q. Do you know what time this visit was? What  
3 time of day this visit was?

4 A. No.

5 Q. Do you know who did the midday? If anybody  
6 went to the bank and deposited any money?

7 A. I can't tell.

8 Q. Do you know why Donna called you? Why would  
9 she call you for this?

10 A. She was calling me to tell me about the whole  
11 situation.

12 Q. Why call you? Were you supposed to do  
13 something about it?

14 A. I'm HR, so any time there is -- well, not any  
15 time. But performance issues, terminations.

16 Q. Okay. Prior to this call from Donna, had you  
17 ever heard of any problems with Frank Allen?

18 A. I don't -- I don't know.

19 Q. And as I understand it, prior to this call  
20 from Donna you didn't -- you had not spoken to  
21 Frank Allen.

22 A. Again, I don't know.

23 Q. Okay. The next one is,  
24 "DM to SA. Go and make day drop."

25 No. "Go and make drop."

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1 A. Uh-huh.

2 Q. I'm sorry. I didn't get what the bottom thing

3 says.

4 A. "Go and make the drop. She verbally

5 counseled it."

6 Q. Who verbally counseled what?

7 A. So, based on my notes --

8 Q. Yeah.

9 A. -- it looks as if Donna coached -- she

10 probably coached her. She said she verbally counseled

11 it. So she probably -- and then I told her -- so the

12 next line says,

13 "HR advised to document it."

14 So she verbally counseled Rosetta. I told her

15 to document it.

16 Q. You told Donna to document the verbal

17 counseling of Rosetta.

18 A. Correct.

19 Q. And did she?

20 A. I don't know.

21 Q. Did you do any verbal counseling document for

22 Rosetta?

23 A. No.

24 Q. Do you do counseling warnings?

25 MS. THOMPSON: Objection. Vague and

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1 ambiguous.

2 THE WITNESS: What do you mean?

3 MS. ALIOTO: Q. Do you do disciplinary  
4 actions and corrective actions that are set down by  
5 the manager?

6 A. HR does not issue them --

7 Q. Right.

8 A. -- no. No.

9 Q. Okay. Next line.

10 "DM and Donna termed today, 4/27..." --

11 MS. THOMPSON: It doesn't say DM and Donna.  
12 It says DM slash Donna.

13 MS. ALIOTO: Q. What's that mean, DM  
14 slash Donna?

15 A. Donna is the DM.

16 Q. Right. Donna is the DM.

17 "DM/Donna..." --

18 A. DM/Donna.

19 Q. Okay. "...termed today, 4/27/10."

20 A. Uh-huh.

21 Q. So in this telephone call, Donna told you she  
22 was terminating Frank Allen?

23 MS. THOMPSON: Objection. Assumes facts.  
24 Vague and ambiguous.

25 THE WITNESS: In a discussion with Donna, we

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1 did talk about the term. I don't remember at what  
2 point.

3 MS. ALIOTO: Q. Okay. Well, you wrote  
4 this. Going back to the front page. You wrote this  
5 on 4/27 and you're saying terminate today.

6 A. Yeah, I'm not saying that I didn't write this.

7 Q. Okay. So did you ask her why -- did she tell  
8 you why she's terminating Frank?

9 A. I'm sure she did. Yeah, the -- because of the  
10 money in the back.

11 Q. Okay. Where is that?

12 A. I don't recall.

13 Q. The \$200 in the back drawer is the reason he  
14 was terminated?

15 A. I believe --

16 MS. THOMPSON: Well, objection --

17 A. -- that was the discussion. So from what I  
18 recall, I know it was dealing -- the issue is dealing  
19 with not protecting company assets.

20 MS. ALIOTO: Q. Okay. And did she talk  
21 to you about the \$200 in the back drawer being the  
22 reason for the termination?

23 A. I know that had something to do with it  
24 because she sent me the pictures.

25 Q. Right. Okay. Now, let me ask you. Did she

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1      mention that David Gonsolin was with her on this day?

2      A.            Yeah.

3      Q.            Okay. But you don't have him anywhere in this  
4      document, do you?

5                MS. THOMPSON: Objection. The document speaks  
6      for itself.

7                THE WITNESS: In this document?

8                MS. ALIOTO: Yeah. I want to make sure I  
9      didn't miss any of your handwriting. You have Basem  
10     being there.

11               THE WITNESS: Uh-huh.

12               MS. THOMPSON: Well, no, objection. Misstates  
13     the testimony, misstates the document.

14               MS. ALIOTO: Q. So what was your  
15     understanding of who was there that day on  
16     April 27th?

17     A.            Well, I know that David was a part of this.

18     Q.            Okay, but was it your understanding that Basem  
19     was there on the day of the termination?

20     A.            I'm not sure.

21     Q.            Okay. When you say you know that David was --

22     A.            I'm not sure if this was the same -- the issue  
23     with Rosetta was the same day of the term. I'm not sure  
24     if that was -- I can't tell whether or not that was the  
25     same day or not.

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1        Q.            Okay. You just said you know that David had  
2 something to do with it. Do you know what he had to do  
3 with it? What was his involvement?

4        A.            He was the loss prevention manager.

5        Q.            Did she ever tell you that he was there with  
6 her that day that she terminated him? The day of this  
7 document.

8        A.            I believe so.

9        Q.            You believe so.

10                    Did she tell you why David was accompanying  
11 her there?

12        A.            I have to look. I know I have additional  
13 notes, so.

14        Q.            Did David tell you that he was afraid of  
15 Frank Allen?

16        A.            I don't remember my entire conversation with  
17 David.

18        Q.            Did you speak to David that day?

19        A.            I don't know if it was that day.

20        Q.            Did you speak to him soon thereafter?

21        A.            I talked to him around that period.

22        Q.            Okay. Did he tell you he was afraid of --

23        A.            No, I don't --

24        Q.            -- this big guy?

25        A.            -- I don't remember.

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1 Q. Did he say anything about David (sic) Allen  
2 that made you think it was different than other  
3 terminations?

4 MS. THOMPSON: Frank.

5 MS. VERONESE: Frank Allen.

6 MS. ALIOTO: I'm sorry. Frank Allen.

7 THE WITNESS: I don't recall that. I don't  
8 recall our conversation to the extent of it.

9 MS. ALIOTO: Q. Okay. What did David say  
10 to you in the conversation, if anything?

11 A. I don't recall specifics.

12 Q. At all.

13 A. I don't.

14 Q. At all.

15 A. I can look at my notes and I can tell you.

16 Q. But you don't recall at all as you sit here?

17 A. If I look at my notes, then I can probably  
18 tell you.

19 Q. Okay. Do you recall whether David told you  
20 that he felt that Frank Allen was going to come back and  
21 shoot up the place?

22 A. I don't recall that.

23 Q. Okay. Now, if a --

24 A. He may have, but I don't recall that.

25 Q. Well, if a loss prevention person tells you

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1 that, would you have called security or somebody else?

2 A. I don't remember what our protocol would have  
3 been. I think that's something that loss prevention may  
4 have handled. I'm not sure. I don't want to assume.

5 Q. Okay. And then it says -- no, I don't want  
6 you to assume anything.

7 A. Yeah.

8 Q. I want to know what you knew as the HR area  
9 representative.

10 A. And I'm trying to think back two and a half  
11 years ago.

12 Q. And you can't remember.

13 A. Nope.

14 Q. Then it says, "SM very irate."

15 Who told you that?

16 A. It must -- Donna.

17 Q. When Donna is in this conversation with you  
18 about Frank Allen, did you know Frank Allen is  
19 African American?

20 A. No. I don't think so.

21 Q. The next sentence says, "Said DM shady."

22 A. Yes.

23 Q. Okay. Did you ask her anything about that?

24 A. I may have. I don't know.

25 Q. You don't know. And then it says,

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1 "Thanks for freeing a slave."

2 A. Uh-huh.

3 Q. Okay. She told you that he said thanks for  
4 freeing a slave, right?

5 A. Looks like it.

6 Q. All right. When she said that, did you ask  
7 her any questions about that statement?

8 A. I don't recall. I don't know. I may have.

9 Q. But you don't remember.

10 A. But I didn't write it down, so I'm not sure.

11 Q. Okay. Did you consider that to be a complaint  
12 of racism?

13 A. No.

14 Q. Okay. Why didn't you consider that to be a  
15 complaint of racism?

16 MS. THOMPSON: Objection. Argumentative.

17 MS. ALIOTO: No, I want to know what her  
18 thinking is as the HR manager, which is what we have a  
19 right to know.

20 MS. THOMPSON: Yeah. Same objection.

21 THE WITNESS: Did I think of that as a  
22 race -- as a complaint of racism?

23 MS. ALIOTO: Right.

24 THE WITNESS: I mean, this came from Donna,  
25 so, if it was a complaint, I would think that Allen

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1 would have indicated that, which he didn't. Not to me  
2 anyway.

3 MS. ALIOTO: Q. Okay. But when she told  
4 you that he said that, did you consider that to be  
5 any kind of complaint?

6 A. No.

7 Q. Okay. Did you ask her any questions about  
8 that statement, "thanks for freeing a slave?"

9 A. I don't recall.

10 Q. All right. Now you see the Post-It below?  
11 Your handwriting here?

12 A. Yep.

13 Q. Do you know what that is?

14 A. It looks like a -- it's a Post-It that has  
15 Frank Alle -- I guess it's Frank Alle. A phone number.  
16 Has April 27th. 12:42, I guess. And then it has 558,  
17 Store 30 -- so ST3830. So that's probably the district,  
18 558. And then Donna termed 4/27.

19 Q. So was it your understanding that Donna  
20 terminated him on that day?

21 A. It looks like it, yeah.

22 Q. Now, she had the authority to terminate; is  
23 that correct?

24 A. Donna?

25 Q. Yep.

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1 A. Yes. But we had a -- Radio Shack had a one-up  
2 policy too.

3 Q. What's that mean?

4 A. Usually you have to -- let me see.

5 If there was a store manager being termed,  
6 then you had -- the DM had to have the RD's approval.  
7 Concurrence.

8 Q. And who was the RD?

9 A. Based on this, it looks like the RD was Basem  
10 at that time.

11 Q. Approval to terminate?

12 A. Yes.

13 Q. Okay. But you wrote here that DM terminated,  
14 right?

15 A. Where?

16 Q. On this Post-It.

17 MS. THOMPSON: Objection --

18 THE WITNESS: That's not my writing on the  
19 Post-It.

20 MS. ALIOTO: Q. Do you know whose writing  
21 it is?

22 A. Not specifically, but --

23 MS. THOMPSON: Objection. Lacks foundation,  
24 calls for speculation.

25 Don't speculate or guess, please.

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1 MS. ALIOTO: Q. No, if you know, do you  
2 know whose it is?

3 A. No, I don't. Not specifically, no.

4 Q. Okay. Did you put this Post-It on there?

5 A. I don't -- I may have. I don't know. It's  
6 probably a message --

7 Q. A message from who?

8 A. -- if I'm not mistaken.

9 Well, Frank Allen is at the top with a phone  
10 number. So it was probably a message left for me.

11 Q. That he called?

12 A. Uh-huh.

13 Q. So it's a message he left for you. Who would  
14 take your messages?

15 A. Anybody that answered the area phone.

16 Q. Okay. And do you recognize that handwriting  
17 as anyone that gave you your messages?

18 A. It could have been a couple of different  
19 people. I don't know.

20 MS. ALIOTO: Okay. Let's go to Exhibit No. 4,  
21 which is dated August 28th, 2010.

22 (Plaintiff's Exhibit 4 marked  
23 for identification.)

24 MS. ALIOTO: Q. Okay. Is this your  
25 handwriting?

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1 A. Yes.

2 Q. The date is April 28, 2010, right?

3 A. Correct.

4 Q. And that's "talked to Frank?"

5 A. Correct.

6 Q. And what's the next sentence?

7 A. "He advised of his term."

8 Q. And "term" means termination?

9 A. Correct.

10 Q. Okay.

11 A. Ready?

12 Q. Next sentence.

13 A. "Advised of..." -- I think that's ops. I'm

14 not -- I can't remember.

15 "Advised of ops decision to term."

16 Q. Okay. Who is ops?

17 A. If that's what I wrote, ops probably would

18 have been operations, like management.

19 Q. And do you know who that is?

20 A. It would have been, again, Donna and the RD.

21 Q. Okay. Next sentence.

22 A. "Advised of pattern of LP issues."

23 Q. What does that mean?

24 A. Advised -- I must have advised him that there

25 was a pattern of loss prevention issues.

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1 Q. And where did you get that knowledge?

2 A. Donna and David -- I know Donna forwarded me a  
3 few different emails. I'm not sure if David did.

4 Q. Okay. As you sit here today, do you have any  
5 idea what that pattern of loss prevention is?

6 A. Yeah, I'd have to refer to the emails that  
7 Donna sent.

8 Q. Okay. And the next sentence.

9 A. "Advised of CAR, etc."

10 Q. So you are -- let me understand this. This is  
11 a telephone conversation that you're having with Frank?

12 A. Yes.

13 Q. And you advised him of his corrective action?

14 A. Yeah. I spoke to the CAR that he was given.

15 Q. Okay. Had you seen the CAR?

16 A. Yeah, I'm sure I did.

17 Q. Okay. Next sentence.

18 A. "Advised I will talk to Donna RSD to get  
19 additional info on reason for term."

20 Q. Okay. Was he nice to you in this telephone  
21 conversation?

22 A. I don't remember how his tone was.

23 Q. Well, did he scare you?

24 A. I don't think so.

25 Q. Next sentence.

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1 A. "Store manager termed for sales associate not  
2 locking the cash drawer."

3 Q. Okay.

4 A. "The store manager wasn't there."

5 So that was him telling me -- I remember him  
6 specifically just being upset about how could he get  
7 terminated for -- when -- for when he wasn't there. Or  
8 how could he be held accountable for a sales associate  
9 doing something -- something to that nature, he was  
10 saying.

11 Q. Okay.

12 A. Not verbatim.

13 Q. And then the SM meaning he was not there.

14 A. Correct.

15 Q. Did you ask him about the comment that she  
16 told you he said about freeing a slave?

17 A. If I didn't write it down, probably not.

18 Q. Was he respectful to you in this conversation?

19 A. I don't -- I don't remember. I know -- I  
20 remember him continuously asking me the same question  
21 over and over again, how could he be terminated for  
22 something that -- for when he wasn't there. I do  
23 remember that.

24 Q. Was there anything from the conversation that  
25 made you afraid of him or made you think he's going to

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1 blow up Radio Shack?

2 A. I can't -- I don't recall that.

3 Q. And that would be something you would  
4 remember, wouldn't it?

5 A. I would think so.

6 Q. Okay. Let's go to the next one, which is  
7 4/20/10.

8 A. What next one?

9 Q. Do you know if this was in the morning --

10 MS. THOMPSON: What are we --

11 MS. ALIOTO: Q. Just a minute. Let me  
12 finish describing it.

13 The one we just looked at, No. 4. Do you know  
14 if that's in the morning?

15 A. I don't remember.

16 MS. ALIOTO: Okay. Now let's look at No. 5.

17 (Plaintiff's Exhibit 5 marked  
18 for identification.)

19 MS. ALIOTO: Q. Okay. Now, do you know  
20 if this was after you talked to Frank?

21 MS. THOMPSON: Well, go ahead and read it  
22 first.

23 THE WITNESS: Yeah, I don't -- it looks --

24 MS. THOMPSON: Read the document --

25 THE WITNESS: Okay.

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1 MS. THOMPSON: -- before you answer questions  
2 about it.

3 THE WITNESS: "April 28, 2010, talked to  
4 Donna on Frank. Advised of convo with Frank."

5 MS. ALIOTO: Hold it. Advised of what?

6 THE WITNESS: Convo. Conversation.

7 "Advised of convo with Frank."

8 MS. ALIOTO: Q. Okay. What does that  
9 mean? You told Donna about your conversation with  
10 Frank?

11 A. Looks like I followed up with Donna because  
12 that's what I told him I would do.

13 Q. Right. Okay.

14 A. Ready?

15 Q. Yep.

16 A. "Practice is consistent."

17 Q. What does that mean?

18 A. I don't remember what I specifically asked  
19 her, but for me to write down practice is consistent, I  
20 probably would have asked her -- well, let's see. Let  
21 me finish reading it.

22 So the next one is, "Picture was..." -- is  
23 the -- probably meant was in the back room.

24 "The store manager..." -- "In the store  
25 manager's desk. She just randomly opened it.

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1 Her habit to check that is appropriate."

2 So that's what he was referring to. Practice  
3 is consistent.

4 Q. Okay. So her habit to check that it's  
5 appropriate, meaning the contents of his back drawer?

6 A. No. Her habit to check.

7 Q. Right.

8 A. I'm saying that is appropriate. I would have  
9 asked her, and that's what I meant.

10 Q. Okay. Her habit to check what?

11 A. The back door. The back --

12 Q. Drawer.

13 A. -- drawer. The desk.

14 Just randomly checking it.

15 Q. Okay.

16 A. Uh-huh.

17 Q. Next one.

18 A. Next. "Donna inquired about the \$200 to the  
19 sales associate and that reminded her..." --

20 "...and that reminded her..." --

21 Prompt her to do -- oh, prompted her -- I  
22 don't know what that is. But the next one.

23 "Sales associate says, 'oh, my God, I just  
24 did a sale. Paid in cash.' Donna then said,  
25 'Okay. Then let's do the midday.'"

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1 Q. Meaning, let's go to the bank?

2 A. I don't remember ever -- I think so. Yeah. I  
3 believe they did go to the bank.

4 Q. Okay.

5 A. Or that's supposed to go to the bank.

6 Q. Next sentence.

7 A. "Donna..." -- so DM talked to store manager.  
8 And this is an asterisk there, so I just -- I think  
9 that -- that would have been, like, a note to myself. I  
10 don't know when this occurred, but -- let's see.

11 "Over a thousand dollars of loss in the store  
12 that he doesn't know about. He just looked at  
13 Donna. Store manager missing the point. He's  
14 not setting clear expectations to sales  
15 associate. He's responsible for the store."

16 Q. Okay. "Over a thousand dollars of loss in  
17 the store that he doesn't know about."  
18 What is that? What did Donna tell you that  
19 was?

20 A. I don't remember.

21 Q. Where did she get that information from, if  
22 anywhere?

23 MS. THOMPSON: Objection. Lacks foundation.  
24 Calls for speculation.

25 THE WITNESS: I don't remember.

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1 MS. ALIOTO: Q. Did anyone tell you,  
2 other than Donna, that there had been any loss of a  
3 thousand dollars in that store?

4 A. Maybe. I don't remember.

5 Q. Did David ever tell you there was any thousand  
6 dollar loss?

7 A. Maybe. I don't remember.

8 Q. Okay. Now what does that say, the third  
9 sentence down?

10 "He just looked at Donna."

11 A. "He just looked at Donna."

12 Q. And that's what Donna is telling you he did?

13 A. Yes.

14 Q. And when did this conversation take place, do  
15 you know?

16 A. When did what conversation --

17 Q. Is this before or after the termination the  
18 day before?

19 A. Don't remember.

20 MS. THOMPSON: Before or after the -- well,  
21 objection --

22 THE WITNESS: This conversation that Donna is  
23 telling me about, or the conversation with Donna?

24 MS. ALIOTO: Q. The conversation Donna is  
25 telling you about this new thousand dollars.

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1 A. Yeah, that's why I'm saying I don't know the  
2 date.

3 Q. Okay. Page 2.

4 A. "Donna will issue a CAR..." -- I guess that's  
5 "...Saturday to sales associate Rosetta.  
6 Donna took the keys..." --  
7 I'm not sure what -- something -- something  
8 today.

9 MS. THOMPSON: Replaced?

10 THE WITNESS: I don't know.

11 "Will issue a CAR, as opposed to term, due  
12 to store manager not -- store manager  
13 non-direction of how to protect cash."

14 MS. ALIOTO: Q. Okay. So to paraphrase  
15 that, she's not going to give Rosetta -- she's not  
16 going to terminate her, she's going to give her a  
17 corrective action because Donna feels that it was  
18 the store manager's fault that he didn't give her  
19 protection -- her -- didn't give her direction on  
20 how to protect cash.

21 A. Correct.

22 Q. And do you know what cash she's referring to  
23 here?

24 A. Based on my notes, I'm not sure if she's  
25 referring to the money that was in the back or

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1 AFTERNOON SESSION

2 EXAMINATION (RESUMED)

3 (Record read by the Reporter as follows:

4 "Q. Now, did you give the CAR to Rosetta  
5 or does Donna do that?

6 "A. No. Donna.

7 "Q. Donna does that.")

8 THE WITNESS: No, in the -- you mentioned CAR.  
9 Going back to the CAR that was issued to Frank Allen  
10 where it said -- we were talking about written warning.

11 MS. ALIOTO: Right. Okay. Say it again.

12 THE WITNESS: No, I just wanted to clarify  
13 where we were talking about final -- or final written  
14 warning. You had asked me to -- if I see anywhere where  
15 it says final in here.

16 MS. ALIOTO: Right.

17 THE WITNESS: Well, the last part where it  
18 says, "failure to achieve" -- I should have said this  
19 before, but,

20 "Failure to achieve the required improvement  
21 will lead to additional discipline action  
22 including and up to termination."

23 MS. ALIOTO: Yep.

24 THE WITNESS: That essentially supports the  
25 final --

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1                    MS. ALIOTO: Well --

2                    THE WITNESS: -- for the discipline.

3                    MS. ALIOTO: Q. Yeah, but this is also  
4 what you give to people who get a first warning,  
5 correct, as opposed to a final warning?

6 A.                It could be but it doesn't necessarily have to  
7 specifically state "final." That opens it up to lead to  
8 that. If there is another infraction, it could be  
9 termination.

10 Q.                Okay. So is it your testimony that as the HR  
11 representative for the area at the time, you did not  
12 have an understanding that there are corrective actions  
13 that are not final?

14 A.                I did not have an understanding?

15 Q.                Right.

16 A.                What do you mean?

17 Q.                Did you understand that there are corrective  
18 actions that are not final corrective actions that say  
19 the same word, wording, that says action including and  
20 up to termination but they are not final?

21 A.                It just depends.

22 Q.                Right.

23                    So to have a final one, don't you have to have  
24 a couple of them before this one?

25 A.                No.

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1 MS. THOMPSON: Objection. Assumes facts.

2 MS. ALIOTO: Q. Okay. All right. Let's  
3 go back to the exhibit we were on real quick here.

4 MS. THOMPSON: Which one was it?

5 MS. ALIOTO: I believe the last exhibit was  
6 Exhibit No. --

7 THE REPORTER: No. 5.

8 MS. THOMPSON: Oh, 5. I'm sorry.

9 MS. ALIOTO: It's the one that's dated --

10 THE REPORTER: It's dated 4/28, Angela.

11 MS. ALIOTO: Q. Right. And it's the one  
12 that says,

13 "SM terminated for SA not locking the cash  
14 drawer."

15 Okay. Is that what Donna told you he was  
16 terminated for?

17 A. Wait. I'm sorry. I thought we were on --

18 MS. THOMPSON: Where are we? Are you talking  
19 about Exhibit 4 now?

20 MS. ALIOTO: Yeah.

21 THE WITNESS: We were on 5.

22 MS. THOMPSON: Where it says, quote -- okay.  
23 Store manager term.

24 MS. ALIOTO: Q. "Terminated for SA not  
25 locking the cash drawer."

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1 Is that what Donna told you?

2 A. No. I'm talking to Frank on this one. So  
3 this would have been Frank telling me this.

4 Q. Okay. So Frank told you that he believed he  
5 was terminated for not locking the cash drawer.

6 A. "Store manager termed for sales associate not  
7 locking the cash drawer. The store manager  
8 wasn't there."

9 This is what he would have told me.

10 Q. Okay. So that's what he believed.

11 Now let's go to the Exhibit No. 5, which you  
12 had. And at the bottom of the first page, the DM  
13 something -- where you put an asterisk.

14 Do you know what you put down below that would  
15 explain the asterisk?

16 A. No.

17 Q. But you did put something down below or the  
18 asterisk wouldn't be there, right?

19 MS. THOMPSON: Objection. Assumes facts.

20 THE WITNESS: Say that again?

21 MS. ALIOTO: Q. You put a quote or a  
22 notation down below or the asterisk wouldn't be  
23 there, right?

24 A. Down below --

25 MS. THOMPSON: Vague and ambiguous.

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1 Let's go to that sentence there.

2 "Over a thousand dollars of loss in the..." --

3 In the what?

4 A. Store.

5 Q. Okay. Now, let me ask you something. What is  
6 this -- did you ever hear that there was a \$1,000 loss  
7 in the store other than Donna telling you this?

8 A. I don't remember.

9 Q. Was there ever any investigation about this  
10 alleged thousand dollar loss?

11 A. I don't remember.

12 Q. And did she ever write to you any other  
13 document, if you know, about a \$1,000 loss?

14 A. I have to look in her emails that she sent me.

15 Q. Let's go to this Exhibit No. 6, which you  
16 referred earlier to a photograph that Donna sent you.

17 A. Yes.

18 Q. Okay. Let's make this Exhibit No. 6 and let  
19 me ask you if this is the photograph that Donna sent  
20 you.

21 (Plaintiff's Exhibit 6 marked  
22 for identification.)

23 MS. ALIOTO: Q. Is that the photograph?

24 A. I believe so.

25 Q. Okay. So then the top -- those are quarters,

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1 correct?

2 MS. THOMPSON: Well, objection. Calls for  
3 speculation.

4 THE WITNESS: I can't tell.

5 MS. ALIOTO: Q. Okay. Are those coins?

6 A. Coins. It looks like it.

7 Q. And then what else do you see in this picture?

8 A. This looks like a bag because it looks like a  
9 zipper.

10 Q. Okay.

11 A. And then there is money in bundles.

12 Q. Okay. Do you have any idea how much the money  
13 there adds up to?

14 A. I don't recall.

15 Q. Did anyone tell you it was about \$200?

16 A. Based on my notes, it looks like it.

17 Q. See anything else there?

18 A. These look like rubberbands. And I don't know  
19 what this big square is to the right of the rubberbands.

20 Q. And again that's the -- you believe that's the  
21 picture that Donna sent you, right?

22 A. I believe so.

23 Q. Now, did you -- well, why were you writing  
24 down these notes of these telephone calls?

25 A. Why was I writing down the notes? Because I

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1 generally write down --

2 Q. Well, were you asked to do an investigation of  
3 this or were you asked to memorialize this in these  
4 documents?

5 A. No.

6 Q. Why were you participating in talking to Frank  
7 and Donna? What was your role?

8 A. Well as HR, if the store manager -- or -- I  
9 mean any employee can call me. So Donna was dealing  
10 with a situation with a loss or asset protection. It  
11 was involving the LPM. And so when she's determining or  
12 wanting to do a termination, then getting guidance  
13 and/or concurrence from HR. It was general practice.

14 Q. And did you concur with her that he should be  
15 terminated?

16 A. Based on what -- the information that she  
17 provided, and that LP was involved, it was supported.

18 Q. Okay. Was it solely based on the information  
19 provided by Donna and by Gonsolin?

20 A. Solely?

21 Q. Uh-huh.

22 A. I mean he had a history, so it's not -- I  
23 mean, everything was provided from them, but, yeah.

24 Q. Okay. So when you're saying he had a history,  
25 what are you basing that on?

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1      A.            The information that was sent to me.

2      Q.            Did you ever see any documents that in any  
3 way, shape, or form documented a history of --

4      A.            A pattern, I should say.

5      Q.            Or a pattern.

6                   Did you see any documents that documented a  
7 pattern?

8      A.            The emails that Donna sent me as well as  
9 David.

10     Q.            And that's all.

11     A.            From what I -- from what I recall.

12     Q.            Okay. You never did any independent study of  
13 whether any of it was true?

14     A.            No. That's not my -- that's not my role. If  
15 they have a potential violation of company policy, LP is  
16 responsible for -- LP is always involved in those  
17 issues, and they generally partner with HR to talk  
18 through the facts that they found.

19     Q.            Okay.

20     A.            So it's a potential -- it's not a loss but it  
21 falls under the loss prevention.

22     Q.            Okay. So that wasn't your role.

23     A.            Right.

24                   MS. ALIOTO: Okay. So let's take a look at  
25 Exhibit No. 7.

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1	(Plaintiff's Exhibit 7 marked	
2	for identification.)	
3	MS. ALIOTO: Q. Okay. Now, Exhibit No.	
4	7, which is a document that's dated March 14th, 2010	
5	at 9:55. You are not cc'd on here, correct?	
6	A. No.	
7	Q. Take a look at both pages. One is a	
8	Radio Shack Corporation document that Mr. Gonsolin filled	
9	out at the request of Donna Ocampo. Page 2 --	
10	MS. THOMPSON: Objection. Not --	
11	Q. -- and Page 1 is the email.	
12	Have you ever seen either one of these	
13	documents?	
14	MS. THOMPSON: I'm just going to object to the	
15	characterization of the documents which I think speak	
16	for themselves.	
17	You can answer the question.	
18	THE WITNESS: I don't -- I'm not -- I don't	
19	think so, but Donna forwarded me a few different emails	
20	and I can't recall if this is one of them or not.	
21	MS. ALIOTO: Q. Well, as you sit here	
22	today, have you ever seen this document, either one?	
23	A. I may have.	
24	Q. Page 1 or 2?	
25	A. I may have.	
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1 A. My notes would have been in a file, but emails  
2 may be -- sometimes I would have printed them off and  
3 sometimes I would have just conserved paper.

4 Q. Okay. So that I understand your testimony,  
5 you don't remember ever seeing this but you might have.

6 MS. THOMPSON: Well, misstates the testimony.

7 MS. ALIOTO: That's why I'm asking. I want to  
8 make it clear so I can go on.

9 THE WITNESS: I said I don't remember. I may  
10 have.

11 MS. ALIOTO: Q. Okay. I want you to take  
12 a good look at Exhibit -- at Page 2 of this Exhibit  
13 No. 7 and tell me, does it look at all familiar to  
14 you?

15 A. Again, same thing. I may have seen this  
16 before.

17 Q. But you don't know.

18 A. I may have seen this before. I don't know.

19 Q. Okay. Let's go to the next exhibit, which  
20 would be No. 8, which would be dated April 27th from  
21 Donna Ocampo to you --

22 A. And just for the record, I've seen a million  
23 of non-negotiable forms, so that's why I'm saying  
24 specifically I don't remember.

25 //

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1 (Plaintiff's Exhibit 8 marked  
2 for identification.)

3 MS. ALIOTO: Q. Okay. Now when you say  
4 you've seen a million non-negotiable forms, this  
5 Page 2 to Exhibit 7 --

6 A. Quote-unquote, a million.

7 Q. Right.

8 And what is it about your job as area HR  
9 manager that you would be seeing these non-negotiables?

10 A. Generally for performance issues or concerns.  
11 Complaints. Whether it was the employee -- the -- or  
12 complaints, concerns, performance concerns, so.

13 Q. So would you say you've seen them on thousands  
14 of employees? You said millions. I'm sure you haven't  
15 seen millions, so --

16 A. Yeah.

17 Q. -- thousands?

18 A. I don't know. Thousands. A lot.

19 Q. Okay. Taking a look at No. 8. This was sent  
20 to you.

21 A. Uh-huh.

22 Q. So do you know why Donna Ocampo sent you this  
23 on April 27th, Tuesday? Sent you Exhibit No. 8?

24 A. I probably told her to send it to me.

25 Q. What is VCOP?

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1 A. Violation of Company Policy.

2 Q. And what is LPM?

3 A. Loss Prevention Manager.

4 Q. Okay. Now, let me ask you something.

5 Mr. Gonsolin wrote up a paragraph that we're going to  
6 get to. Is it the policy of the company to write up a  
7 paragraph on a -- and send it to HR on an employee who  
8 is being terminated?

9 MS. THOMPSON: Objection. Lacks foundation.  
10 Calls for speculation. Vague and ambiguous.

11 THE WITNESS: I probably --

12 MS. THOMPSON: Just what paragraph are we  
13 talking about?

14 MS. ALIOTO: I haven't showed it to her yet  
15 and I have a right to not to do that. I mean --

16 MS. THOMPSON: All right.

17 MS. ALIOTO: -- she stops when you do that.  
18 We're going to be here all day.

19 MS. THOMPSON: All right. I'm sorry.

20 MS. ALIOTO: So now we have to re-read it,  
21 right? Right.

22 Can you re-read it for her.

23 (Record read by the Reporter as follows:

24 "Q. Okay. Now, let me ask you

25 something. Mr. Gonsolin wrote up a

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1 paragraph that we're going to get to. Is  
2 it the policy of the company to write up  
3 a paragraph on a -- and send it to HR on  
4 an employee who is being terminated?"

5 MS. THOMPSON: Objection. Vague and  
6 ambiguous.

7 THE WITNESS: So are you talking about this  
8 paragraph --

9 MS. ALIOTO: No.

10 THE WITNESS: -- that he wrote up?

11 MS. ALIOTO: No.

12 THE WITNESS: Okay.

13 MS. ALIOTO: Q. I'm asking about policy.  
14 Is it a policy to write a paragraph on an employee  
15 and send it to HR when they're being terminated?

16 A. Policy?

17 Q. Yeah.

18 A. I can't speak to that.

19 Q. All right. So taking a look at this that  
20 Donna Ocampo sent you. Did you call anyone other than  
21 Donna Ocampo and ask them if any one of the items listed  
22 in the forwarded email that's Exhibit No. 8 were true or  
23 not?

24 A. If any of these --

25 Q. Right.

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1      A.            -- that he calls out here?

2      Q.            I don't know what you mean by calls out. Is  
3      that some kind of slang?

4      A.            That he says.

5                   No, it's not slang.

6      Q.            What is it?

7      A.            That he calls out. That he states.

8      Q.            That he states. Okay.

9                   Exactly. We can go over them one by one, if  
10     you want. Or you can look at all the paragraphs here  
11     and tell me if you called anyone and asked anyone if  
12     these were true. Other than Ocampo --

13     A.            No --

14     Q.            -- and Gonsolin.

15     A.            -- no. It's not my role.

16     Q.            Okay.

17     A.            I had no reason to question these. This was  
18     handled by LP and this is what LP found.

19     Q.            So Donna Ocampo sent this to you on April 27th  
20     and it is a document written by David Gonsolin on  
21     March 14th, correct?

22     A.            Looks like it here, yeah.

23     Q.            Okay. So between that time period, did you  
24     receive any other document concerning Frank Allen? Any  
25     other corrective action or any other write-up for that

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1      matter?

2      A.            I'm not sure.

3      Q.            In the year prior to -- the year prior to  
4      April of 2010, had you ever received any write-up of  
5      Frank Allen?

6      A.            I don't know.

7      Q.            When you talked to Ocampo, were you aware at  
8      all of any prior corrective actions that Mr. Allen had  
9      or didn't have?

10     A.            Restate that.

11                (Record read by the Reporter as follows:

12                "Q. When you talked to Ocampo, were you  
13                aware at all of any prior corrective  
14                actions that Mr. Allen had or didn't  
15                have?")

16                MS. THOMPSON: Objection. Asked and answered.

17                THE WITNESS: Based on my notes, it looks like  
18      Donna told me about a previous CAR.

19                MS. ALIOTO: Q. No, no. I'm asking you  
20      whether you ever saw one.

21     A.            I don't know.

22     Q.            So you don't have any personal knowledge. You  
23      didn't see it --

24     A.            I don't know.

25                MS. ALIOTO: Okay. Let's go to our Exhibit

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1 No. 11.

2 (Plaintiff's Exhibit 9 marked  
3 for identification.)

4 MS. ALIOTO: Q. Okay. Now, this is from  
5 David Gonsolin to Donna Ocampo, Basem Aybef,  
6 James -- that's A-Y-B-E-F. James Peterson. She is  
7 forwarding this to you, Shaana (sic) Smith.

8 A. Shaan.

9 Q. I'm sorry. Shaan Smith on April 27th, 2010.  
10 Correct?

11 A. Yes.

12 Q. Okay. Do you know why she sent this to you?

13 A. I probably told her to send it to me.

14 Q. And why would you tell her to send it to you?

15 A. For documentation supporting the term.

16 Q. Did you tell David to write this document  
17 that's Page 2? Take a look at Page 2.

18 A. I don't know. I don't know if I told him.

19 Q. Have you ever seen a document like Page 2  
20 documenting a termination from loss prevention in  
21 regards to a termination?

22 A. Not necessarily regarding a termination.  
23 Sometimes I did ask for statements to be sent, so I  
24 don't know if I did specifically with this one.

25 Q. Okay.

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1 A. But not sure.

2 Q. You never received another one from  
3 Mr. Gonsolin, did you --

4 A. I don't remember.

5 Q. -- concerning any other employee?

6 A. Any other employee?

7 Q. Right.

8 A. Oh. I'm sure I have.

9 Q. If he said this is the only one he's ever  
10 written, do you recall him writing --

11 MS. THOMPSON: Objection --

12 Q. -- a statement like this on any other employee  
13 that was being terminated?

14 MS. THOMPSON: I have to object. Misstates  
15 the testimony, assumes facts not in evidence.

16 He did not testify to that at all.

17 MS. ALIOTO: He did testify to that.

18 So -- I'm not going to debate that. So I'll make it a  
19 hypothetical.

20 MS. ALIOTO: Q. If he said that he's  
21 never done a document like this before for any other  
22 employee, do you recall him doing a document like  
23 this for any other employee and sending it to you at  
24 HR?

25 MS. THOMPSON: Again, misstates the record and

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1 A. Say it again.

2 Q. Did your relationship, your working  
3 relationship, end with Mr. Gonsolin on an amicable -- on  
4 a friendly basis in your mind?

5 A. For the most part, yeah. I mean he left  
6 before I did. For the most part, yeah. But I knew he  
7 was very bitter.

8 Q. Okay. Well, any time before he left or after  
9 he left, did any person from this company talk to you  
10 about him?

11 A. Talk to me about David?

12 Q. About accusations he made about you.

13 A. No.

14 MS. THOMPSON: Objection. Assumes facts.

15 Sorry.

16 MS. ALIOTO: Q. All right. So let's go  
17 to his paragraph.

18 A. Which one?

19 Q. This right in front of you. Page 2 of  
20 Exhibit 9.

21 Okay. It says that -- I'm going to give you  
22 time to read it all, okay?

23 A. I'm sorry?

24 Q. I want you to read it all.

25 A. Yeah, I am.

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1 (Pause for review.)

2 Q. Let me know when you're finished, okay?

3 A. Uh-huh.

4 (Pause for review.)

5 Okay.

6 Q. Okay. Going up to the -- after Ocampo sent  
7 this to you on April 27th at 8:12 p.m., did you speak to  
8 Mr. Gonsolin about this document?

9 A. I don't know. I may have.

10 Q. Okay, you don't know.

11 Do you see where it says in the middle of the  
12 paragraph,

13 "Frank slammed his store keys down on the  
14 desk and began using foul language  
15 expressing his disagreement with the decision."

16 A. Uh-huh. I see that.

17 Q. Did Donna say anything to you about that, or  
18 did you ask Donna anything about that?

19 A. About what this says specifically?

20 Q. Right.

21 A. Did I ask Donna about this?

22 Q. Right.

23 A. I don't know. Donna said it to me and I wrote  
24 down in my notes that Frank was irate, but I don't  
25 remember specifically on this.

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1 Q. But you didn't write down that he used foul  
2 language, did you?

3 A. No, I didn't write that down.

4 Q. Do you have any idea what this means in  
5 David's document that he used foul language?

6 A. I don't remember.

7 MS. THOMPSON: Objection. Lacks foundation.  
8 Calls for speculation.

9 MS. ALIOTO: Q. Only if you know. Do you  
10 have any idea?

11 A. I don't remember.

12 Q. Okay. Going down a couple of sentences, it  
13 says,

14 "Frank then called Donna shady."

15 Did Donna tell you that Frank called her  
16 shady?

17 A. I have to look on my notes.

18 Q. Or that Frank called her anything.

19 MS. THOMPSON: Well, let's look -- let her  
20 look at the notes.

21 THE WITNESS: So it looks like I talked to  
22 Donna on the 27th. She did tell me that store manager  
23 was very irate. Said DM, which is Donna, shady.

24 Yeah. So Donna did tell me that.

25 MS. ALIOTO: Q. And did you ask

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1      Donna -- after you read that, did you -- when Donna told  
2      you that he told her she was shady, did you ask her any  
3      questions about it, like what did he mean?

4      A.            I may have. I don't know.

5      Q.            You don't know.

6                   And you don't know -- you didn't talk to Frank  
7      at all, right?

8                   MS. THOMPSON: Well, objection --

9                   THE WITNESS: What do you mean?

10                  MS. THOMPSON: -- misstates the testimony.

11      She talked about --

12                  MS. ALIOTO: I'm sorry. I didn't finish the  
13      sentence.

14                  MS. ALIOTO: Q. You didn't talk to Frank  
15      at all about calling Donna shady, correct?

16      A.            Based on my notes, it doesn't look like that  
17      was discussed.

18      Q.            Okay.

19      A.            That nor the slave piece. I mean it doesn't  
20      look like Frank brought that up at all.

21      Q.            And you didn't either.

22      A.            Right. He talked to me. I'm not going to  
23      feed him that information.

24      Q.            And Frank continued to argue -- what do you  
25      mean you're not going to feed him that information?

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1                    So you don't know if they gave it to him or  
2 not, do you?

3                    A.            I'm not sure.

4                    Q.            Okay. It says, quote, "thank you for freeing  
5 a slave."

6                    A.            Uh-huh.

7                    Q.            Okay. Now, when you read this, did you -- you  
8 knew Mr. Allen was African American, right?

9                    MS. THOMPSON: Objection --

10                   THE WITNESS: No. Again, you keep asking me  
11 the same questions I've already answered.

12                   MS. ALIOTO: Q. No. When you read this.  
13 When you received this.

14                   A.            How would I have known that he's  
15 African American?

16                   Q.            I'm asking you whether you knew or not. You  
17 could have known several different ways.

18                   A.            And, again, I don't know.

19                   Q.            Okay. And one way you should have known is  
20 through filing with the federal government on what the  
21 race of people are --

22                   MS. THOMPSON: Well, objection --

23                   Q.            -- so that's what the HR office does.

24                   MS. THOMPSON: Objection -- wait, wait, wait,  
25 wait.

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1 Argumentative.

2 MS. ALIOTO: Q. Okay. So you're saying  
3 you've never filed those documents anyway, right?

4 MS. THOMPSON: Objection. Vague and  
5 ambiguous. Assumes facts.

6 MS. ALIOTO: Q. EEO-1s and affirmative  
7 action plans for a massive company that's supposed  
8 to --

9 MS. THOMPSON: Assume -- never mind. This is  
10 just silly. Come on.

11 MS. ALIOTO: Q. So I'm just saying. So  
12 it's your testimony now that you did not know that  
13 Frank Allen was black; is that your testimony?

14 A. Correct.

15 Q. And so you didn't talk to Frank at all about  
16 the "freeing a slave" comment?

17 A. No. Doesn't look like it.

18 Q. Okay. Did you ask him if he walked out of the  
19 store yelling?

20 A. Don't know.

21 Q. So you didn't investigate any of these  
22 statements here? You didn't ask Frank about any of the  
23 statements that are in the David Gonsolin letter, did  
24 you?

25 A. I looked into what Frank advised me.

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1      Q.            Right. I'm asking you whether you asked Frank  
2      any --

3      A.            I don't remember.

4      Q.            -- of the questions that were in the David  
5      letter?

6      A.            Don't remember.

7      Q.            Okay. The David document, for the record, is  
8      Exhibit No. 9.

9                    Okay. Let's go to the next one, Exhibit  
10      No. 10, dated April 27th at 8:09.

11                    Okay. So this is from Donna to --  
12                                    (Plaintiff's Exhibit 10 marked  
13                                    for identification.)

14                    MS. ALIOTO: Q. Is your name spelled  
15      right here? Yeah, it is. To you with jpgs.

16                    Do you know if this is the email that was  
17      attached to the photographs?

18      A.            I don't know.

19      Q.            Do you know if these attachments are  
20      photographs?

21      A.            I don't know.

22      Q.            Okay. So you don't know whether these are the  
23      pictures of the drawer and you don't know whether these  
24      are pictures at all; is that your testimony?

25      A.            Yeah, I'm not sure.

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1 document. It's nothing -- I'm not -- it's nothing we  
2 haven't already discussed.

3 MS. ALIOTO: Well, that's your opinion and  
4 it's my depo.

5 Let me see what she's saying on Exhibit 8.

6 MS. ALIOTO: Q. Okay. There is no  
7 written document by David Gonsolin from 3/09 that's  
8 attached to it. This is just a summary of what he  
9 wrote on 3/09, but there is no 3/09 document.

10 Right?

11 MS. THOMPSON: Well, okay, here is the  
12 problem. She didn't -- this witness did not write that  
13 document. She asked --

14 MS. ALIOTO: Q. I want to know if she saw  
15 the write-up of January -- if she ever saw any  
16 write-up from 2009?

17 MS. THOMPSON: Then I'm going to object to the  
18 extent that it's vague and ambiguous and assumes facts.

19 MS. ALIOTO: Q. Did you ever see a  
20 document from March of 2009 that was allegedly a  
21 write-up of Frank Allen?

22 A. I don't know.

23 Q. Okay.

24 MS. THOMPSON: Wasn't that, I'm sorry,  
25 Exhibit 7? Is the --

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1 going to happen.

2 (Plaintiff's Exhibit 11 marked  
3 for identification.)

4 MS. ALIOTO: Q. Okay. This is to you at  
5 Radio Shack from Frank Allen on May 5th.

6 Do you see this?

7 A. Yes.

8 Q. Okay. Did you receive this?

9 A. Looks like I did.

10 Q. Okay. "I spoke with you on April 28th."

11 Did you speak with Frank Allen on April 28th  
12 regarding the reason he was terminated other than what  
13 you've already testified to?

14 A. On the 28th, yes.

15 Q. Okay. Is he referring to the conversation  
16 you've already discussed with us today and the document  
17 that we went over?

18 MS. THOMPSON: I just have to object as calls  
19 for speculation and lacks foundation in terms of what  
20 he's referring to.

21 MS. ALIOTO: Q. Did you speak to him more  
22 than once?

23 A. I'm not sure.

24 Q. It says, "Ms. Smith, I spoke with you on  
25 April 28th, 2010 regarding the reason I was

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1 terminated by Donna on the 27th, 2010. You  
2 were going to look into the problem and get  
3 back to me."

4 Did you tell him you would look into it and  
5 get back to him?

6 A. Based on my notes -- based on my notes, it  
7 doesn't specifically say that. Based on my notes, it  
8 says I will advise -- "I will talk to Donna in RSD to  
9 get additional information on reason for term."

10 But I didn't document that I would actually be  
11 following up with him.

12 Q. Okay. But when you said you will talk to  
13 Donna and other people for further information, you told  
14 him that.

15 A. "Advised I will talk to Donna/RSD to get  
16 additional information."

17 Q. That's what you told him, right?

18 A. Yes.

19 Q. Okay. "As of today I have not heard back -- I  
20 have not heard from you, nor have I received  
21 any termination papers. Please advise."

22 Did you answer this email?

23 A. I don't know.

24 Q. You don't know?

25 A. I don't know.

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1           Q.           You don't know.  
2                       Did you ever send him any termination papers?  
3           A.           That wasn't my role. I didn't provide it.  
4           Q.           I didn't ask you what your role is now, I'm  
5 asking you whether you did it.  
6                       Did you send him termination papers?  
7           A.           No, it wasn't my role.  
8           Q.           When he says here, "As of today I have not  
9 heard back from you, nor have I received termination  
10 papers," did you -- do you know if you called him or  
11 wrote him back and said, that's not my role, I'm not  
12 supposed to give you termination papers?  
13           A.           I'm not sure.  
14           Q.           Okay. And then where it says please advise,  
15 did you give him any advice at all after your  
16 conversation -- strike that.  
17                       Did you speak to him at all again after  
18 April 28th?  
19           A.           I'm not sure.  
20           Q.           And do you know if you spoke to him after he  
21 wrote you this email on May 5th of 2010?  
22           A.           I'm not sure.  
23           Q.           Do you know if you spoke to him at all in the  
24 year 2010 after April?  
25           A.           Not sure.

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1      Q.            Now, do you know if you spoke to him in 2011?

2      A.            I'm not sure.

3      Q.            I'm not going to introduce this.

4                   Is this the -- what was the name of the  
5 gentleman, Carlos, that you mentioned earlier? What's  
6 his last name?

7      A.            You said Carlos?

8      Q.            Carlos.

9      A.            Juarez.

10     Q.            Juarez.

11                   Do you know Carlos Venegas? V-E-N-E-G-A-S.

12     A.            I don't think so. The name doesn't sound  
13 familiar.

14     Q.            Is it your role, or did you have anything to  
15 do with replacing people who get terminated?

16                   MS. THOMPSON: Asked and answered. You went  
17 over this earlier.

18                   THE WITNESS: No.

19                   Well, I take that back. As an area HR  
20 manager?

21                   MS. ALIOTO: Uh-huh.

22                   THE WITNESS: No.

23                   MS. ALIOTO: Q. As a regional?

24     A.            I was responsible for recruiting.

25     Q.            And what was the date of you becoming

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1 Q. Okay. Have you ever heard that certain stores  
2 that have a high volume and that also have a risk,  
3 because they're allegedly in dangerous areas, like the  
4 Tenderloin, that they were allowed to keep a cash drawer  
5 in the back so they wouldn't have to change -- make  
6 change?

7 A. I --

8 MS. THOMPSON: Objection -- wait, wait, wait.

9 Objection. Assumes facts. Lacks foundation.

10 THE WITNESS: Can you restate that.

11 (Record read by the Reporter as follows:

12 "Q. Okay. Have you ever heard that  
13 certain stores that have a high volume  
14 and that also have a risk, because  
15 they're allegedly in dangerous areas,  
16 like the Tenderloin, that they were  
17 allowed to keep a cash drawer in the back  
18 so they wouldn't have to change -- make  
19 change?")

20 MS. THOMPSON: Objection. Assumes facts. It  
21 misstates the record. Lacks foundation.

22 THE WITNESS: That's not familiar to me. I'm  
23 not aware of that.

24 MS. ALIOTO: Q. Okay. Have you ever  
25 heard of the concept that if the district manager

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1      and the regional manager okay'd it, a store manager  
2      could keep cash in the back drawer the way  
3      Mr. Nabozny is testifying here?

4                    MS. THOMPSON: Objection. Lacks foundation,  
5      calls for speculation, assumes facts and misstates the  
6      record.

7                    THE WITNESS: I'm not aware of that.

8                    MS. ALIOTO: Q. Have you ever been aware  
9      of anybody else ever being terminated for keeping  
10     cash in the back drawer?

11     A.            I can't recall specifically.

12     Q.            Do you know Hani Alzaghari?

13     A.            Yeah.

14     Q.            Okay. Did he ever talk to you about keeping  
15     cash in the back drawer?

16     A.            I don't know specifically. He may have. I  
17     talk with DMs about a lot of different things.

18     Q.            Okay. So how often would you -- well, let me  
19     ask you. How well do you know Hani?

20     A.            Say that again?

21     Q.            How well did you know Hani?

22     A.            He was a DM.

23     Q.            Okay. Did you know him socially?

24     A.            No.

25     Q.            Would you talk to him on the phone monthly?

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1      A.            As-needed.

2      Q.            As-needed.

3                    So do you ever recall meeting with Hani?

4      A.            If I was investigating a matter that he was  
5 involved in, or his district, then yeah. But I don't  
6 know how many times.

7      Q.            Okay. But did you ever meet with Hani  
8 concerning Frank Allen?

9      A.            I don't believe so.

10     Q.            Okay. I want you to finish reading this  
11 document. I'm going to ask you one last question on it  
12 and then --

13                    MS. THOMPSON: Which document now?

14                    MS. ALIOTO: The one in front of her.

15                    THE WITNESS: I was only reading the part that  
16 you were reading.

17                    MS. ALIOTO: No, I understand that. I want  
18 you to finish reading the document.

19                    THE WITNESS: (Pause for review.)

20                    MS. ALIOTO: Q. Okay. Can I ask you --

21     A.            Do you want me to finish reading this?

22     Q.            Sure.

23     A.            (Pause for review.)

24                    Okay.

25     Q.            Okay. Now, do you know Mr. Tom Schultz?

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1      A.            Yes.

2      Q.            All right. Mr. Tom Schultz, at the time, was  
3      the regional manager when you were there?

4      A.            No.

5      Q.            What was he when you were there?

6      A.            Area vice -- AVP. Area vice president.

7      Q.            As area vice president, had he ever discussed  
8      with you keeping money in the back room?

9      A.            No.

10     Q.            Okay. Had he ever discussed Frank Allen with  
11     you?

12     A.            No, he wouldn't have talked to me about that.

13     Q.            How often would you have meetings with the  
14     area vice president as the area HR person?

15     A.            I join when Donetta invited me. So they had  
16     meetings all the time. There was I think, like, maybe a  
17     meeting a month or something that I would go to. But  
18     outside of that, never.

19     Q.            Okay. Were you still there when  
20     Donetta -- Donetta didn't come back, right?

21     A.            No, she didn't.

22     Q.            Okay. All right. Now, let me just ask you  
23     something about the service for coming to this  
24     deposition.

25                    Did you meet with our service processor and

152



Allen vs. Radio Shack Shaan Smith

10-23-12

1 I, DEBRA J. SKAGGS, CSR No. 7857, a Certified  
2 Shorthand Reporter, do hereby certify:

3 That SHAAN SMITH, the witness in the foregoing  
4 deposition was by me duly sworn to tell the truth, the  
5 whole truth, and nothing but the truth in the  
6 within-entitled cause;

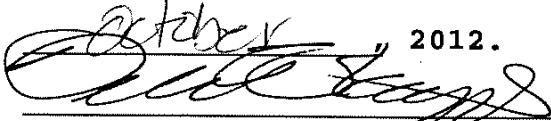
7 That said deposition was reported by me and  
8 transcribed as herein set forth;

9 That, if signed, the deposition was read by or  
10 to said witness, corrected in every particular desired  
11 way, and was thereafter subscribed by said witness;

12 That, if unsigned, the deposition was retained  
13 by me at the offices of DE SOUZA & ASSOCIATES, San  
14 Mateo, California and was available for reading,  
15 correcting and signing by said witness.

16 I further certify that I am not interested in  
17 the outcome of said action, nor connected with, nor  
18 related to any of the parties in said action or to their  
19 respective counsel.

20 IN WITNESS WHEREOF I have hereunto  
21 set my hand this 29<sup>th</sup> day of  
22 October, 2012.

23   
24 DEBRA J. SKAGGS, CSR No. 7857  
25

156

De Souza &amp; Associates 650-341-2671

desouzacr@att.net

TT Donna 4-27-10  
 SM - 10 yrs

3/24-10 - Finall - unv. issued in file  
 - he didn't address to final

1) DM1 RSD Aybeth visit store (art  
 Tuesday  
 - \$200 in an unprotected cash  
 - CAR = his failure to identify  
 more than \$1000 in cash value in the  
 fill.

- sitting in the driver in the  
 back not locked.

2) DM went to SA - Rosetta to inquire  
 on \$ in the back

Witness:  
 Bayon

- we said this is where we put the  
 extra change - the total we always put  
 it then we pull out \$100 from her  
 back pocket

- DM took that then they went to  
 bank to do the whole money

- DM1 RSD SA.

EXHIBIT	2
Deft.	For Identification
Consisting of	2 Pages
Witness	Smith
Date	10-23-12
Debra J. Skaggs CSR 7857	

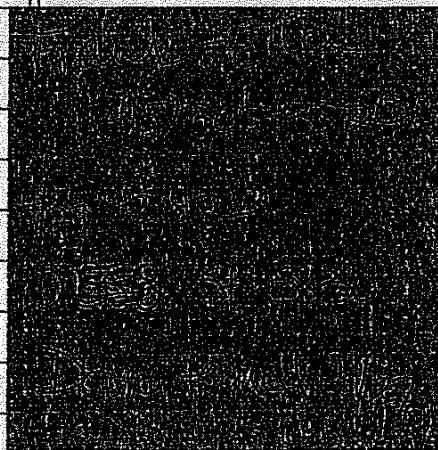
RS/ALLEN000266

DM - SA - & grand male dog  
- verbal  
- no court school it.

HL - t added to document 11.

DM/DMna Term today: 4-27-10

- Sm very irate
- and km study
- Thaw for freezing a mare
- 



RS/ALLEN000267



## Corrective Action Record

Employee Name:	Frank Allen	District:	538
Job Title:	Store Manager	Date:	3/23/2010
Supervisor:	Donna Ocampo	Area:	West

*Identify behavior, performance, special issues, or events requiring corrective action:*

Issue to Correct	<p>Failure to protect company assets from internal and external theft.</p> <ul style="list-style-type: none"> <li>5 laptops on display, not secured (only screamers)</li> <li>Missing Cage Counts for Mid February</li> <li>Laptops were not secured in the backroom. David Gonsolin RLPM and I made room in the cage to protect the laptops.</li> <li>Several months of numerous cash shortages were found. You failed to report the shortages and did not have an explanation as to why they are happening.</li> </ul>
------------------	--

*List date(s) and summarize all previous counseling's both verbal and written:*

Previous Action(s) (Specific)	<p>Store Visits from David Gonsolin RLPM 2/04/2009 documenting similar issues with asset protection.</p> <p>Previous DM communication through Store Visits, District Meeting and One on One conversations.</p>
-------------------------------	--

*What disciplinary action may occur due to failure to improve?*

Consequences Of Failure To Improve	<p>Failure to achieve the required improvement will lead to additional disciplinary action including and up to termination.</p>
------------------------------------	---

Employee Comments	
-------------------	--

I have received a copy of this Corrective Action Record and understand RadioShack has an Open Door Policy. I may discuss this issue or any other employee relations issue with my Area Human Resources Director, \_\_\_\_\_, the Employee Relations Department or any member of Management in my chain of command.

*[Signature]*  
Employee

*3/23/10*  
Date

*[Signature]*  
Supervisor

*3/23/10*  
Date

EXHIBIT	3
Def.	1
Consisting of	Pages
Witness	Smith
Date	10-23-12
Debra J. Skaggs CSR 7857	

RS/ALLEN000192

4-28-10

TT Frank

- adv of his term  
- adv of Cpt decisions to term

- adv of pattern of CP issued  
- adv of CAd, etc.

- adv I will + Roman/RPD  
to get addl info  
- in reason for term

- Sm turned for SA not locking  
the cash drawer.  
- The Sm wasn't there.

EXHIBIT	4
Def.	For Identification
Consisting of	1 Pages
Witness	Smith
Date	10-23-12
Debra J. Skaggs CSR 7857	

RS/ALLEN000265

4-28-10

TT Donna on Frank

- adv of Comed of Frank
- practice is consistent

SMIS

- picture = now is the back room = the desk  
she just randomly open it - she has it  
to check that it's appropriate.

Bayer - Donna - inquired about the 200 to 100  
per cent SA and that reminded her / prompt to  
to do

SA - "omen 1 just did a sale... paid in  
cash" -

- Donna reminder of the 100 to 100 midday.

PM-3PM \* new \$1000 of loss in the store that  
he doesn't know about.

- he just looked at Donna.
- SM missing the point
- He's not setting clear expectations  
to SA = he's responsible for the store.

RS/ALLEN000263

EXHIBIT	05
Def.	For Identification
Consisting of	2 Pages
Witness	Smith

- ① Donna will issue cash sat to SA: Rosta
- Donna took the keys (returned) today
  - will issue a cash
- as opposed to turn down:
- 
- SA direction on of how to protect the cash.

RS/ALLEN000264





RS/ALLEN000260

EXHIBIT	06
Def.	1
Consisting of	Pages
Witness	Smith



**From:** Loss Prevention (Corporate)  
**To:** Monique Hebert; Candice Vaughn  
**Subject:** FW: LPNN 3830 030910  
**Date:** Sunday, March 14, 2010 9:55:39 AM  
**Attachments:** LPNN 3830 030910.xls

---

**From:** David Gonsolin  
**Sent:** Sunday, March 14, 2010 11:55:23 AM  
**To:** 013830  
**Cc:** James Peterson; 0101 RSD Donna Ocampo; Loss Prevention (Corporate)  
**Subject:** LPNN 3830 030910  
**Auto forwarded by a Rule**

Please see the attached LP Non-Negotiables for Store 3830

During the course of this visit it was found that there have been numerous cash shortages in the last several months. The SM needs to start conducting over short inquiries at least 4 times a day. There was one cage count missed in mid February. There were several items in the product inspection area that need to be secured in the cage. The sales floor had 3 Schlage lock sets that were not secured with screws or anything. Also, there were 5 laptops that did not have proper security device on them and all 6 LCD TV's did not have the cables. There was an ICST that was autoreceived on 2/20 and two shipments that were autoreceived on 2/21 and 1/31. A follow up visit will be conducted by the DM and RLPM to ensure these items are all corrected.

EXHIBIT	07
Deft.	For Identification
Consisting of	2 Pages
Witness	Smith
Date	10-23-12
Debra J. Skaggs CS# 7857	

RS/ALLEN000193



**LP Non-Negotiables**  
**UPLOAD SUCCESSFUL**

Store: 3830  
Region: 11 - San Francisco  
District: 0538 - San Francisco  
Date: 3/9/2010  
RLPM Name: David Gonsolin  
Manager Name: Frank Allen  
Visit Category: DM Request

#### Non-Negotiables

Yes	Do store associate know who to contact in the event of a serious incident. (Burglary, Robbery, Assault)
N/A	Review the daily deposits (ANSO > Admin > Daily Deposits > Exception Report) for the past 30 days. Was the store consistently making deposits in a timely manner (no late deposits)? What was the total quantity of late deposits identified?
No	Does the store manager know how to pull their P&L and review the inventory control numbers? Review store's shrink and other loss performance with SM.
N/A	Locate the last 3 days of daily reports. Were all refunds and voids documents present and signed? Conduct an on hand count and verify all refunds over \$35.00 from the same days.
N/A	Of the refund items selected, were you able to match physical counts with store on hand quantities?
N/A	Conduct an Over/Short inquiry with the person in charge. Was the discrepancy less than \$2.00?
No	If there were variances in excess of \$5 in the past 30 days, were there less than 3? What were the total number of days with a cash variance >\$7?
No	Is there a trend of cash discrepancies that indicate internal theft (large loss, an employee consistently tracks for cash variances)?
Yes	Is a working Manual Credit Card Imprinter available and being used at all times.
N/A	Run a Credit Card report for the last 7 days and verify an imprint was obtained for all manually entered bank cards.
N/A	Are associates aware of the weekly password program?
N/A	Do all key carriers have keys to open the lock box and locking file cabinet?
No	Are there count sheets for secured inventory for the last eight weeks? Are discrepancies reconciled? Have the discrepancies been report to the RLPM and DM? (Cage counts should be located on the clipboard in the cage.)
N/A	Inspect 20 items that are more than \$25 in retail value. Are the merchandise tagging guidelines being followed? Is store consistent with tagging placement?
N/A	Run an on hand report for high dollar merchandise (160,170,200,250,260,420) and randomly check a minimum of 15 high risk items from the stores cage and 10 items from the sales floor for accuracy.
No	Visually inspect the entire backroom area for merchandise that does not appear sellable (loose product). Is the store taking proper steps to dispose of the merchandise (RMAC, ICST, Repair, etc)? (If secured merchandise is in the product inspection area this answer is no)
N/A	Is the store completing the Daily and Weekly Non-Negotiable Standards of Operational Performance Checklist?
N/A	Review the DM's last Non-Negotiable visit, if any discrepancies noted have they been corrected?
N/A	Are all keys including perimeter, cage, locking peg and displays cases secured and in the possession of an authorized key holder?
N/A	Are all the store locks keyed to the RadioShack approved Medico locks?
N/A	Does store have adequate alarm protection (motion covering exterior glass, exterior exits, back stockroom, etc). Is cage vulnerable and need additional protection (e.g. interior common wall with other retailer)?
N/A	Was the backdoor secured? If opened was an associate present at all times?
Yes	If the store has a public view monitor is it properly working?
Yes	Is the CCTV system operable and being used? Are the time and date set correctly?
N/A	Is the EAS system operating properly (Inspect by activating the alarm)?
N/A	Using the "Stock File List - All DISCO / DEVAL On Hand Items Report", Select 10 random items from the report with a difference between retail and current pricing of \$50. Were all 10 items on display and priced correctly?
N/A	Are all display cases secured with slide locks?
No	Are all security devices being used properly (including locking peg hooks, acrylic toppers and laptop cables)?
No	Verify all laptops are properly secured (a screamer by itself is not adequate protection)
No	Verify all LCD TV's are secured with mechanical cable to prevent theft and for safety.
No	Have all ICST's been received into the RSS within seven days?
No	Review last 5 packing lists. Is there evidence that the location was verifying shipments and is there corresponding SAR's for overages, shortages or damages? (Finalized SAR's should be attached to the Packing List or they can be reprinted from the RSS under Utilities>Print Manager>Receiving Reports)
No	Review the shipments in the RSS system (Whse Bulk Receiving). Were all shipments received into the RSS system within 24 hours of receipt? Is there evidence that the SM is completing the must count list?
No	Review Deactivation detail. Are there indications of internal involvement, common associates, names or other unusual patterns that can indicate fraud? Talk with associates about wireless knowledge of activation procedures.
N/A	Review store's trash procedure. Are there safety procedures in place and adequate internal controls?
N/A	Are fire exits clear, exit light illuminated? Are there any safety issues that need immediate correction?

#### Comments:

During the course of this visit it was found that there have been numerous cash shortages in the last several months. The SM needs to start conducting over short inquiries at least 4 times a day. There was one cage count missed in mid February. There were several items in the product inspection area that need to be secured in the cage. The sales floor had 3 Schlage lock sets that were not secured with screws or anything. Also, there were 5 laptops that did not have proper security device on them and all 6 LCD TV's did not have the cables. There was an ICST that was autoreceived on 2/20 and two shipments that were autoreceived on 2/21 and 1/31. A follow up visit will be conducted by the DM and RLPM to ensure these items are all corrected.

RS/ALLEN000194

**0340 AHRM Shaan Smith**

**From:** 0538 DM Donna Ocampo  
**Sent:** Tuesday, April 27, 2010 8:10 PM  
**To:** 0340 AHRM Shaan Smith  
**Cc:** 0534 RSD Basem Aybef  
**Subject:** FW: VOCP 3830 Allen 031410

Frank Allen-

VOCP and LPM notes from 3/09 Store Visit.

**From:** David Gonsolin  
**Sent:** Sunday, March 14, 2010 10:04 AM  
**To:** 0101 RSD Donna Ocampo  
**Cc:** James Peterson; 0340 AHRD Donetta Gunnells; Loss Prevention (Corporate)  
**Subject:** VOCP 3830 Allen 031410

Please see the attached Violation of Company Policy Memo regarding Store 3830.

3/14/2010 - Failure to secure merchandise on the salesfloor, complete weekly cage counts, report cash shortages

On 3/09/10 a visit was conducted to store 01-3830, San Francisco California. During the visit it was found that Store Manager Frank Allen had 5 laptops on display that were only secured by screamers. It was also found that there were 6 LCD TV's on display and none of them had the required security cable. There were also 3 Schlage locksets, approximately \$199.99 each, that had no security devices on them at all. It was also found that Allen had missed a cage count in mid February.

Lastly it was found that over the past several months there were numerous cash shortages. Allen had not reported these and had no explanation as to why they are happening.

Allen is aware of the external challenges of this store due to its location, however, he failed to protect our assets in numerous ways. In February 2009 a visit was conducted and Allen had just had a laptop stolen from the sales floor where he did not have it secured at all. Allen needs to ensure he uses all available resources to protect our assets on the sales floor. Allen must also complete the weekly cage count in full and communicate any missing items to his DM and RLPM. Allen also agreed to start conducting over short inquiries at least 4 times a day and report any large cash shortages to his DM and RLPM.



VOCP 3830  
Allen.xls

EXHIBIT	8
Def't	For Identification
Consisting of	2 Pages
Witness	Smith
Date	10-23-12
Debra J. Skeggs CSR 7857	

RS/ALLEN000257



DATE: March 14, 2010

TO: 0538 DM  
cc: James Peterson; 0340 other cc:  
AHRD; 0101 ASD  
Loss Prevention (Corporate)

FROM: David Gonsolin  
Regional LP Manager  
Office:  
Mobile: (916) 842-9552

TYPE: Failure to Protect Assets

SUBJECT: Failure to secure merchandise on the salesfloor, complete weekly cage counts, report cash shortages

RE: Store #: 3830 Employee: Allen Frank

The following details are provided to you for your information and action deemed appropriate. If you have any questions concerning this matter, please do not hesitate to contact me.

On 3/09/10 a visit was conducted to store 01-3830, San Francisco California. During the visit it was found that Store Manager Frank Allen had 5 laptops on display that were only secured by screamers. It was also found that there were 6 LCD TV's on display and none of them had the required security cable. There were also 3 Schlage locksets, approximately \$199.99 each, that had no security devices on them at all. It was also found that Allen had missed a cage count in mid February.

Lastly it was found that over the past several months there were numerous cash shortages. Allen had not reported these and had no explanation as to why they are happening.

Allen is aware of the external challenges of this store due to its location, however, he failed to protect our assets in numerous ways. In February 2009 a visit was conducted and Allen had just had a laptop stolen from the sales floor where he did not have it secured at all. Allen needs to ensure he uses all available resources to protect our assets on the sales floor. Allen must also complete the weekly cage count in full and communicate any missing items to his DM and RLPM. Allen also agreed to start conducting over short inquiries at least 4 times a day and report any large cash shortages to his DM and RLPM.

RS/ALLEN000258

**0340 AHRM Shaan Smith**

---

**From:** 0538 DM Donna Ocampo  
**Sent:** Tuesday, April 27, 2010 8:12 PM  
**To:** 0340 AHRM Shaan Smith  
**Subject:** FW: 3830 Summary

Below are notes from David Gonsolin from today's termination with Frank Allen.

---

**From:** David Gonsolin  
**Sent:** Tuesday, April 27, 2010 8:07 PM  
**To:** 0538 DM Donna Ocampo  
**Cc:** 0534 RSD Basem Aybef; James Peterson  
**Subject:** 3830 Summary

Here is my narrative about the termination that took place at 3830 today. Please let me know if there is anything else needed in regards to this incident.

David Gonsolin  
Regional Loss Prevention Manager  
San Francisco Region 11  
Cell (916) 842-9552  
Fax (916) 983-9503



3830 summary.doc

EXHIBIT	9
Deft.	For Identification
Consisting of	2 Pages
Witness	Smith
Date	10-23-12
Debra J. Skaggs CSR 7857	

RS/ALLEN000261

On 4/27/2010, District Manager Donna Ocampo and I arrived at store 01-3830 to speak with Store Manager Frank Allen. Upon arrival to the store Frank stated that he was expecting us. We went to the backroom to speak with Frank at which time Donna asked him to explain why she had found \$200 in cash left unsecured in the desk drawer in the backroom. Frank tried to explain that he was not here when that had happened and another associate must have left it unlocked. I explained to Frank that he had a very significant cash loss problem that we had discussed on our prior visit and this was unacceptable to leave cash unsecured like this. Frank immediately began asking what was going to happen with him. Donna informed him that the company is removing him from his position and terminating his employment. Frank slammed his store keys down on the desk and began using foul language, expressing his disagreement with the decision. He asked what the reason for his termination was and Donna explained that it was due to his failure to protect company assets. Frank argued that he is not responsible for what his associates do when he is not here, as he had left the store before the money was left unsecured in the desk drawer. Frank then called Donna "shady" at which time she told him to leave the store. Frank continued to argue with Donna and I attempted to step in and calm him down. I tried to talk him into leaving the store quietly; however, he stated he did not want to hear what I had to say. Donna gave him his letter of separation which he refused to sign. After giving him the letter of separation he said, "thank you for freeing a slave" and began to walk out. After that comment I told Frank that was not appropriate and he walked out of the store yelling.

RS/ALLEN000262



**0340 AHRM Shaan Smith**

---

**From:** 0538 DM Donna Ocampo  
**Sent:** Tuesday, April 27, 2010 8:09 PM  
**To:** 0340 AHRM Shaan Smith  
**Cc:** 0534 RSD Basem Aybef  
**Subject:** FW: IMG00303-20100420-1911.jpg  
**Attachments:** IMG00303-20100420-1911.jpg

Shaan: Below are details regarding Frank Allen.

On 3/23/2010 Frank Allen was given a CAR (Failure to Protect Company Assets). The only copy I have available is the signed copy. I will also be emailing you written documentation provided by LPM David Gonsolin during our visit on 3/09. The last and final incident happened on 4/20, the picture and the email I sent to David is below.

Thanks,  
Donnas

-----Original Message-----

**From:** 0538 DM Donna Ocampo  
**Sent:** Tuesday, April 20, 2010 7:24 PM  
**To:** David Gonsolin  
**Subject:** IMG00303-20100420-1911.jpg

3830, 7:16pm cash is left unprotected in the desk drawer. About \$150. Plus another \$1000 for a midday unprotected. Please call me when you have a moment.

Thanks, Donna

EXHIBIT	010
Deft.	For Identification
Consisting of	1 Pages
Witness	Smith
Date	10-23-12
Debra J. Skaggs CSR 7657	

RS/ALLEN000259

Aug 29 12 02:56p Frank Allen  
Print

15102222560

P. 4  
Page 1 of 1

**From:** FRANK ALLEN (f.allen6588@sbcglobal.net)  
**To:** shaansmith@radioshack.com;  
**Date:** Wed, May 5, 2010 9:24:58 PM  
**Cc:**  
**Subject:** [ No Subject ]

Ms. Smith,

I spoke with you on April 28, 2010 regarding the reason I was terminated by Donna on April 27, 2010. You were going to look into the problem and get back to me. As of today I have not heard from your nor have I received any termination papers. Please advise.

Frank Allen

EXHIBIT	11
Deft.	For Identification
Consisting of	1 Pages
Witness	Smith
Date	10-23-12
Debra J. Skaggs CSR 7857	

<http://us.mg205.mail.yahoo.com/dc/launch?partner=sbc&gx=1&.rand=fncamftqfjd7>

8/29/2012

ALLEN V RS 000177



Exhibit 11

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

FRANK ALLEN,

Plaintiff,

vs.

CASE NO.  
CV 11 3110 WHA

RADIO SHACK CORPORATION, et al.,

Defendants.

\_\_\_\_\_/

DEPOSITION OF THOMAS NABOZNY

October 25, 2012

Reported by:  
WENDY C. BROWN  
C.S.R. NO. 5697

PATRICIA CALLAHAN REPORTING  
Certified Shorthand Reporters  
(510) 885-2371 (415) 788-3993  
Facsimile (510) 247-9775  
PATRICIA CALLAHAN REPORTING

PATRICIA CALLAHAN REPORTING

Dec. of Thompson - Exhibit 11

1 BE IT REMEMBERED THAT, pursuant to Notice of  
2 Taking Deposition, and on Thursday, October 25, 2012,  
3 commencing at the hour of 11:00 o'clock a.m. of the said  
4 day, at the law offices of MILLER LAW GROUP, 111 Sutter  
5 Street, Suite 700, San Francisco, California, before me,  
6 WENDY C. BROWN, a certified shorthand reporter, State of  
7 California, personally appeared THOMAS NABOZNY, a  
8 witness in the above-entitled court and cause, produced  
9 on behalf of the defendant, who, being by me first duly  
10 sworn, was then and there examined and interrogated by  
11 Attorney Tracy Thompson, representing the law offices  
12 of MILLER LAW GROUP, 111 Sutter Street, Suite 700,  
13 San Francisco, California, counsel for the defendant.

14  
15 APPEARANCES OF COUNSEL

16  
17 FOR THE PLAINTIFF:

18  
19 LAW OFFICES OF MAYOR JOSEPH L. ALIOTO &

20 ANGELA ALIOTO

21 BY: ANGELA MIA VERONESE, ESQ.

22 700 Montgomery Street

23 San Francisco, California 94111

1 Q. Okay.

2 Do you have any reason to believe that that  
3 medication will affect your ability either to understand  
4 my questions or to respond truthfully to them?

5 A. No.

6 Q. Is there any reason we shouldn't go forward  
7 today?

8 A. No.

9 Q. Okay. All right. Are you represented by  
10 counsel today?

11 A. Yes.

12 Q. Okay. And is that Ms. Veronese?

13 A. Yes.

14 Q. When did you retain Ms. Veronese?

15 A. Couple weeks ago, maybe a month ago.

16 Q. Okay. Now, you worked at Radio Shack -- I  
17 understand that you worked at Radio Shack sometime in  
18 the 1980's; is that right?

19 A. 1984 to 1986.

20 Q. And were you in loss prevention during that time  
21 period?

22 A. Yes.

23 Q. And was that out here in California?

24 A. No.

25 Q. Where were you working in 1984 to 1986?

PATRICIA CALLAHAN REPORTING

1 A. Do you want the region or do you want where my  
2 office was?

3 Q. Why don't you tell me where your office was and  
4 then what region you covered.

5 A. My office was out of New Jersey and  
6 Pennsylvania. We moved it into Pennsylvania eventually.  
7 But my region was half of Pennsylvania and all of  
8 New Jersey, and at that time, it was a portion of  
9 Delaware.

10 Q. And what was your job title then?

11 A. Regional loss prevention manager.

12 Q. You left voluntarily, I take it?

13 A. Yes.

14 Q. And then you returned to Radio Shack in 2000?

15 A. 2000, correct.

16 Q. And you left then in about October of 2009?

17 A. Yes.

18 Q. And during that entire time, am I correct in  
19 understanding that your job title was regional loss  
20 prevention manager?

21 A. Yes, that's the title.

22 Q. Did you hold any other jobs during that period,  
23 from 2000 to October 2009?

24 A. With Radio Shack?

25 Q. Yeah.

1 A. No, that was the only job I had.

2 Q. And as a regional loss prevention manager, what  
3 was the title of the person to whom you directly  
4 reported? Was that the area --

5 A. Yeah, the area -- area loss -- they call him the  
6 area loss prevention manager.

7 Q. So the area loss prevention manager.

8 A. Yeah.

9 Q. Was that abbreviated ALPM?

10 A. I think so.

11 Q. And who was the area loss prevention manager --  
12 was it area -- okay, area loss prevention manager when  
13 you first started in 2000?

14 A. Oh, no, that was different.

15 Q. Okay.

16 A. The area loss prevention manager came toward the  
17 end. When I first started, I reported to the director  
18 of -- director and assistant director of loss  
19 prevention.

20 Q. And was the director of loss prevention -- was  
21 that a position that was based in California or based at  
22 corporate?

23 A. Based at corporate, Fort Worth, Texas.

24 Q. So when you first started in 2000, who did you  
25 report to?

1 Q. Do you think it's G-l-a-d-n-y?

2 A. Maybe.

3 Q. Okay.

4 A. God, if I knew there was a test, I would have  
5 brought all this stuff.

6 Q. That's all right. I'm just asking --

7 A. Okay.

8 Q. -- to the best of your knowledge and  
9 recollection.

10 Q. All right. So Mr. Gladney assumed the position  
11 of area loss prevention manager?

12 A. Correct.

13 Q. What year was that, approximately?

14 A. I'm saying 2004, maybe, 2005. I don't remember.

15 Q. Okay. That's your best recollection?

16 A. Yeah.

17 Q. Best estimate? Okay.

18 And how long did you report to Mr. Gladney?

19 A. For about two years.

20 Q. And then to whom did you report?

21 A. Uh, James Peterson.

22 Q. So was that about 2007, 2006?

23 A. About 2000 ... let's see. About 2007.

24 Q. Now, had Mr. Peterson been employed in a  
25 different position --

PATRICIA CALLAHAN REPORTING

1 A. No.

2 Q. -- by Radio Shack, or did he come from outside,  
3 to your knowledge?

4 A. He worked -- he started about a couple of months  
5 after I did, in 2000, as just a regional loss prevention  
6 manager.

7 Q. So you and Mr. Peterson started at Radio Shack  
8 about the same time, and you were both regional loss  
9 prevention managers?

10 A. Correct.

11 Q. And he was in a different region than you,  
12 obviously?

13 A. Yeah, he was down to San Diego.

14 Q. Okay. So in around 2007, it's your  
15 understanding that he was promoted to the position of  
16 area loss prevention manager?

17 A. Yes.

18 Q. And at that point, did you begin reporting  
19 directly to Mr. Peterson?

20 A. Yes.

21 Q. And did you continue to report, then, to  
22 Mr. Peterson until you left the company?

23 A. Yes.

24 Q. And where were you based while you were working  
25 from 2007 to the time you left; where was your office?



1 A. Okay. Why 2007? Is that just the time I  
2 reported to James? 'Cause the whole time I worked in  
3 2000 --

4 Q. All right. Well, let's -- okay, fine. So from  
5 2000 until the time you left, did you work in one  
6 location?

7 A. Yes.

8 Q. And where was that?

9 A. San Ramon.

10 Q. And that was the area offices for Radio Shack?

11 A. Regional, area, divisional. They had a bunch of  
12 names for it.

13 Q. Okay. And when Mr. Peterson became the area  
14 loss prevention manager, did he then work out of the  
15 San Ramon office, as well?

16 A. No.

17 Q. Where was he based, to your knowledge?

18 A. San Diego, San Diego, Riverside, somewhere down  
19 there. That's all I remember.

20 Q. Were you the only regional loss prevention  
21 manager working out of San Ramon?

22 A. During what period of time?

23 Q. During the entire 2000 to 2009.

24 A. Between -- between 2000, no, we had, one, two --  
25 three other people that were what they called loss

1 A. Correct.

2 Q. -- fair?

3 A. Um-hum.

4 Q. Is that "yes"?

5 A. Yes, yes.

6 Q. Okay. Sorry. So who was in charge of the area  
7 from 2000 to 2009 in San Ramon while you were working  
8 there?

9 A. Okay. During that time, we only had a regional,  
10 between 2000 and probably 2005 or '6, when Tom Schultz  
11 kind of moved up to a different title.

12 Q. So who was the regional during that period, as  
13 you've described it?

14 A. Okay. During what period of time?

15 Q. From 2000 to 2005 or '6.

16 A. Okay, Tom Schultz was the regional, and then he  
17 got promoted.

18 Q. Okay. So is Tom Schultz in charge of the  
19 San Ramon office, from the store perspective, for the  
20 entire time from 2000 to 2009, as far as you knew?

21 A. Yes and no. Tom Schultz was promoted, I'm  
22 thinking, 2006 or 2007 to the -- what they call the VP  
23 area -- division VP, whatever his title was. And then  
24 they hired in a -- a regional manager by the name of  
25 Duncan something. I can't remember his last name. And

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1 he was the regional between, I would say 2007 -- end  
2 part of 2007, 2008, to around halfway through 2009. He  
3 was there about a year and a half.

4 Q. Duncan was.

5 A. Duncan, yes.

6 Q. Okay. Your understanding was that during that  
7 period, Duncan had overall responsibility for everything  
8 that came under the San Ramon office.

9 A. Under the San Ramon region, yes.

10 Q. Okay. So was Tom Schultz there the entire time  
11 that you were there, from 2000 to 2009?

12 A. Yes.

13 Q. He was in the San Ramon office, working with  
14 you --

15 A. Yeah, that office became --

16 MS. VERONESE: Let her finish.

17 MS. THOMPSON: Q. You need to wait. I'm sorry.

18 So was Mr. Schultz -- so you and Mr. Schultz  
19 were working together the entire time, from 2000 to  
20 2009?

21 A. Yeah, you could say that, as I came in and out  
22 of the office and stuff.

23 Q. And how would you characterize your working  
24 relationship with Mr. Schultz?

25 A. Good. I had a great relation.

1 Q. Did you like Mr. Schultz?

2 A. Yes.

3 Q. Did you respect him?

4 A. Yes.

5 Q. Did you think that he was doing a good job?

6 A. Yes.

7 Q. Did you think that he was a fair person?

8 A. Yes.

9 Q. Do you think he was truthful and honest?

10 A. Yes.

11 Q. Any difficulties at all in working with

12 Mr. Schultz?

13 A. None.

14 Q. All right. So as the regional loss prevention  
15 manager, what were your duties and responsibilities?

16 A. As the regional, there was -- we had different  
17 areas. One would be, of course, investigations into  
18 employee theft, employee fraud, things like that. The  
19 other thing would be auditing stores, training and  
20 mostly liaison with the outside authority, police  
21 departments, district attorneys, things like that.

22 Q. When you say one of your -- let me ask you this:  
23 The duties and responsibilities that you just outlined,  
24 did those pretty much remain the same during the period  
25 2000 to 2009?

1 A. Yes.

2 Q. Now, you mentioned that one of your  
3 responsibilities was auditing stores. Can you tell me  
4 what you meant by that?

5 A. Well, there's two different types of audit. One  
6 would be just a regular visit, where we'd go in and take  
7 a snapshot of the store and we'd report that to the  
8 district manager, saying, "Okay, we came in. We found  
9 that the back door to the stockroom was open," or "the  
10 cage was unlocked," or "his cases weren't locked" or --  
11 things like that.

12 Then the other one was a full-blown audit, where  
13 we actually went through a lot of the paperwork, making  
14 sure all compliances were, in fact, being completed  
15 properly as per policy and procedure.

16 Q. Okay. With respect to the full-blown audit as  
17 you've described it, did those happen on some kind of  
18 periodic basis?

19 A. Uh, the way it would work is sometimes we  
20 would -- we would look at the stores based upon  
21 inventory levels, things like that. If there was issues  
22 that we needed to look into, we would go in and  
23 investigate there.

24 Q. So I'm talking about the full-blown audit,  
25 though. Was there a policy or practice that stores

1 would be audited with a full-blown audit once a year,  
2 once a month --

3 A. No, no.

4 Q. Nothing like that?

5 A. Sorry.

6 Q. So when would you determine whether to do a,  
7 quote, full-blown audit?

8 A. As I said, we would then review things such as  
9 their inventories, and we would look at that, and we'd  
10 look if they're in compliance with paperwork, 'cause get  
11 information from Fort Worth, saying, you know, "We had a  
12 problem with this store; maybe you need to go do an  
13 audit." I might get the thing from the company, asking  
14 me to do it; I might get it from a district manager,  
15 asking me if I can do an audit of the store.

16 Q. Okay. So either your superiors or the district  
17 managers could make a request for a, quote, full-blown  
18 audit at any time?

19 A. Um-hum.

20 Q. Is that "yes"?

21 A. Yes. I'm sorry.

22 Q. That's okay.

23 Would you also -- was it a company policy or  
24 practice -- excuse me, I'm going to sneeze.

25 (Discussion off the record.)

1 MS. THOMPSON: Q. If a store manager left for  
2 any reason, was it a company policy or practice to do a,  
3 quote, full-blown audit at the time of the turnover to  
4 the new manager?

5 A. If a manager left, there would be an inventory  
6 done.

7 Q. And by "inventory," you mean a complete count of  
8 all the merchandise?

9 A. Right, with the manager going out, to the new  
10 manager coming in.

11 Q. What was your understanding of the purpose of  
12 that inventory?

13 A. Because what they never wanted to see was this  
14 manager taking over the store that had tremendous  
15 inventory losses --

16 THE REPORTER: Slow down a little bit.

17 MS. THOMPSON: Yeah, I'm sorry. You're worse  
18 than I am.

19 (Record read by the reporter:

20 "Answer: Because what they never wanted to  
21 see was this manager taking over the store  
22 that had tremendous --")

23 THE WITNESS: New manager taking over the store  
24 and having to inherit an inventory problem. So this  
25 way, they would take the inventory and say, "Okay, it's

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1 a 4-, \$5,000 loss. They know what it is; it goes to the  
2 manager leaving. The new manager would start over.

3 MS. THOMPSON: Q. Okay. And how soon after a  
4 manager leaving would that inventory take place,  
5 typically?

6 A. Usually it would be anywhere between 24 hours up  
7 to 72 hours.

8 Q. And would the store employees participate in  
9 that inventory?

10 A. Yes.

11 Q. All of the store employees?

12 A. In that store, yes.

13 Q. That's what I meant. I'm sorry. So all of the  
14 employees in the store would be required to participate  
15 in the inventory that would follow the departure of a  
16 store manager?

17 A. Yes. Now, in some cases -- I'll change it a  
18 little bit, because they do this -- or they did -- that  
19 is, the district manager can then say, "All I want is  
20 this" -- "how this to be done, I just want managers to  
21 do the inventory." So each district manager was a  
22 little bit different.

23 Q. Okay. So the district manager might say, "For  
24 this particular inventory, I only want managers to  
25 participate"?



1 A. Correct.

2 Q. But if the district manager didn't make that  
3 instruction, the expectation would be that all store  
4 employees would participate in the audit?

5 A. Along with the new manager.

6 Q. Would the district manager also participate?

7 A. They were supposed to, yes.

8 Q. Okay. You also mentioned what you referred to  
9 to as, quote, regular visits, end quote, where you would  
10 get a snapshot of the store. How often would you  
11 undertake these regular visits, as you have described  
12 them?

13 A. Every day, every day I was out in the field.

14 Q. Okay. But how frequently would you hit a  
15 particular store on, quote, a regular visit?

16 A. "A particular store," I don't understand what  
17 you mean by "particular store."

18 Q. Well, how often -- well, let's say with  
19 Mr. Allen's store.

20 A. Okay.

21 Q. Store 3830. How frequently would you do a  
22 regular visit of his store?

23 A. Maybe once a year, maybe. You know, it all  
24 depends.

25 Q. And what does it depend on, I'm sorry?

1 A. Well, for instance, let's say Frank had a  
2 problem in the store with a person stealing. Well, I  
3 would go in the store, do a visit, waiting for the  
4 person. I'd just sit there and wait.

5 Q. Okay. So, let me make sure I understand  
6 something. Did you have a regular schedule of visits to  
7 the various stores in your area?

8 A. No.

9 Q. Okay. So you would make these visits upon the  
10 request from a store manager?

11 A. No.

12 Q. If the store manager asked you to come, you  
13 wouldn't come?

14 A. Sometimes they didn't even know I was coming.  
15 I'd just walk in the building, 'cause I had an  
16 investigation going.

17 THE REPORTER: I need you to slow down.

18 THE WITNESS: I'm sorry.

19 MS. THOMPSON: Q. Well, that's what I'm trying  
20 to figure out.

21 A. Okay.

22 Q. What would prompt you to go to a store to do a  
23 regular visit?

24 A. Okay.

25 Q. Please go as slowly as you can.

1 A. Okay. If I was going to a store, it might be --  
2 I have an investigation of an employee. And part of the  
3 thing was, sometimes we -- almost all the time, unless  
4 the manager, himself, told us that this person was  
5 stealing, they didn't know why I was there.

6 Q. Who didn't know why you were there?

7 A. The store manager.

8 Q. I'm just trying to figure out -- all right. So  
9 one reason you might go is to investigate an employee?

10 A. Correct.

11 Q. What other reasons would prompt you to visit a  
12 particular store at a particular time for a regular  
13 visit?

14 A. It could be a district manager calling me up,  
15 "Hey, could you stop by the store and take a look at it,  
16 see what you think," for loss prevention issues.

17 Q. Okay. Was that a frequent occurrence?

18 A. It happened, but not -- they didn't call me up  
19 every day.

20 Q. No, but was that a regular practice of district  
21 managers to --

22 A. Yes.

23 Q. -- ask you to -- you need to wait, and we really  
24 both need to slow down.

25 So let me start the question again. During the

1 period you were there, from 2000 to 2009, was it a  
2 common occurrence for district managers to ask you to  
3 come by particular stores?

4 A. Yes.

5 Q. Okay. There was nothing unusual about such a  
6 request, was there?

7 A. No.

8 Q. And so what I started to ask you earlier, did  
9 store managers have the ability to request you to come  
10 to their stores, or did they have to go through the  
11 district manager, to your understanding?

12 A. Sometimes a brand-new store -- because when I  
13 did training, one of the things I would tell them,  
14 "Within the next six months after becoming a manager, I  
15 will be stopping by your store to see how you're doing,  
16 to go over things." Sometimes these new managers would  
17 call me up and ask me to come in to do a visit to see  
18 how they're doing, to see what I can -- how I can help  
19 them.

20 Q. Okay. And so if a new store manager made that  
21 request of you, would you comply?

22 A. Yes, I'd say, "I'll be there within a few days."

23 Q. Okay. So other than in the situation that  
24 you've just described where there's a new manager, did  
25 store managers have the authority on their own to ask

1 you to come by their store to conduct a visit?

2 A. Yes.

3 Q. Okay. So either district managers could ask you  
4 to do it; that would be one way, right?

5 A. Um-hum.

6 Q. Is that "yes"?

7 A. Yes.

8 Q. And store managers could ask you; that would be  
9 another reason why you might go to a store?

10 A. Yes.

11 Q. How about regional sales directors, could they  
12 also ask you --

13 A. Yes. Okay. I'm sorry.

14 Q. All right. So when you conducted one of these  
15 regular visits, tell me what kinds of things you did and  
16 were looking for.

17 A. You're talking about visits.

18 Q. You've described, quote, regular visits.

19 A. Okay, regular visit.

20 Q. That's what I'm talking about now. I'm not  
21 talking about -- you gave me two --

22 A. Two things. The audit --

23 Q. You said there was a -- what you've described as  
24 a, quote, full-blown audit, and the second thing was a  
25 regular visit. Did I understand you correctly?

1 A. Correct.

2 Q. Okay. So now I'm talking about what you're  
3 referring to as regular visits.

4 A. Okay.

5 Q. Okay. So when you went to a store to do a  
6 regular visit, as you've used that term, tell me what  
7 kinds of things you would do, please.

8 A. One of the things we would do is count the cash  
9 drawer; that would be one of our first things.

10 Q. So what do you mean, you would count the cash  
11 drawer?

12 A. To make sure that -- what happens is we can see  
13 at any one time on the computer how much cash is in the  
14 drawer.

15 Q. And what was your purpose in doing that?

16 A. To make sure nothing was missing.

17 Q. Well, how would you determine whether something  
18 was missing by just counting the cash?

19 A. You would count the cash, and then the system  
20 would tell you, "You're to have this much money in the  
21 drawer."

22 Q. I see. So you would count the cash in the cash  
23 drawer. What other kinds of things would you do on a  
24 regular visit?

25 A. Regular visit, I think I mentioned before, we

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1 would see if the -- when we walk in, we'd just kind of  
2 do a snapshot, look around.

3 Q. What would you be looking for?

4 A. See if the back door to the stockroom was open.

5 Q. Was the door -- the back -- when you say the  
6 back door to the stockroom, do you mean at the manager's  
7 office?

8 A. Kind of. We had a door -- a lot of places had  
9 doors, and they had a back room.

10 Q. Right.

11 A. And the door could lead over to the manager's  
12 office or to the stockroom. Each building is different.

13 Q. Okay. So was the door either to the stock room  
14 or to the manager's office, was that supposed to be  
15 opened or closed?

16 A. Closed.

17 Q. At all times?

18 A. At all times.

19 Q. Okay. What other kinds of things would you look  
20 at?

21 A. See if the security cage was locked.

22 Q. And where was the security cage?

23 A. Usually in the back, back stockroom.

24 Q. And I take it the security cage was supposed to  
25 be locked at all times?

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1 A. Yes.

2 Q. Okay. What other things would you be looking  
3 for on a regular visit?

4 A. Uh, make sure that the cabinets -- cabinets up  
5 front were locked.

6 Q. Okay.

7 A. Make sure that the EAS system, the Electronic  
8 Article Surveillance system, I think it's called, was  
9 working properly.

10 Q. And what was the point of that particular  
11 system, as you understood it?

12 A. Merchandise had tags on them called ESA (sic)  
13 tags, and their things were -- when you walked out, it  
14 automatically put an alarm at the door, saying somebody  
15 is trying to walk out without paying for something.

16 Q. Right. Okay. So what would you do to make sure  
17 that surveillance system was working properly?

18 A. Just test it. Get a -- get a piece of  
19 merchandise and pass it through.

20 Q. What other kinds of things would you do on a  
21 regular visit, other than what you've told me?

22 A. The log for the EAS system, make sure they're  
23 tested on a daily basis.

24 Q. Anything else?

25 A. Um, what else was there? Um, if they had alarm

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1 systems for the merchandise that was on the floor, we  
2 tested that to make sure that was working.

3 Q. Did you do any review of required paperwork --

4 A. Um --

5 Q. -- on these regular visits?

6 A. The only thing we would look at, really, when we  
7 looked at paperwork, is make sure the deposits were  
8 made, the deposit slips were there and that they were  
9 being made during the proper time.

10 Q. Was there any protocol with respect to how much  
11 cash was permitted to be in the store at any given  
12 moment before a bank deposit was made?

13 A. Yes. There was a -- the company had a policy,  
14 and -- where Fort Worth banking would set a limit for  
15 each store, based upon their volume.

16 Q. So, once a store reached that limit that had  
17 been set by corporate --

18 A. Um-hum.

19 Q. -- once that limit in cash had been reached at a  
20 particular store, was it the store's responsibility to  
21 make sure that a bank deposit was then made?

22 A. Again, it all depended upon the volume. Like,  
23 for instance, holiday weekend, coming up Christmas,  
24 volume there would be much more. They might have to  
25 go, "Okay, I'm two" -- Fort Worth would say, "We only

1 want you to have \$300 over your bank." They would have  
2 to then -- or 500. They would say, "Make the deposit."

3 Q. Okay. So, no, I think we're saying the same  
4 thing --

5 A. Okay.

6 Q. -- but I want to make sure that we're clear.  
7 What you told me is that each store, depending on  
8 volume, had a level that was set by corporate --

9 A. Um-hum.

10 Q. -- for the maximum amount of cash you were  
11 supposed to have in the store at any one time, right?

12 A. Correct.

13 Q. Okay, so whatever the store was and whatever  
14 their limit was, once the store reached its designated  
15 limit --

16 A. Um-hum.

17 Q. -- the store employees would be required to make  
18 a deposit?

19 A. Correct.

20 Q. And so there was no fixed number of deposits for  
21 any given day; it would just depend on the levels of  
22 cash against the protocols that had been -- the limits  
23 that had been established; is that right?

24 A. Yeah, kind of. Again, I have to change it just  
25 a little bit.

1 Q. Okay, sure.

2 A. And that's because, in certain circumstances,  
3 our downtown stores, we didn't want them going to the  
4 bank all the time, especially during Christmas, because  
5 of incidents that could happen. And we've had them  
6 throughout -- I worked for Radio Shack -- we've had  
7 numerous incidents throughout the country of places for  
8 downtown, like New York, Chicago, places like that,  
9 employees being robbed.

10 Q. So I want to make sure I understand something,  
11 then. So how would that affect the number of bank  
12 deposits per day compared to the cash limits that you've  
13 just described?

14 A. Well, for instance, they would have to remove  
15 the money from the drawer and make up the bank thing  
16 showing they made a bank deposit, and take the thing and  
17 put it in a plastic envelope. That envelope would  
18 usually be put in another drawer. In case we got  
19 robbed, nobody would know where it was at.

20 So the end of the day, these guys could go  
21 together -- two people could go to the bank. That's  
22 what our ob -- the object behind it was, so there would  
23 be two people making a deposit during the Christmastime.

24 Q. Was this a particular policy that applied during  
25 the holiday season?

1 A. For certain areas, yes.

2 Q. And can you tell me what those areas were, how  
3 was that --

4 A. It depended upon, like, if your area --  
5 Los Angeles, we had the Watts area. Nobody made a  
6 deposit unless you went two when you went -- together in  
7 two.

8 Q. So the policy for certain areas was that you  
9 would always have at least two people making the bank  
10 deposit?

11 A. Right, and it would always be at the end of the  
12 business day.

13 Q. So -- and was that true throughout the year or  
14 just during the holiday season?

15 A. Just during the holidays.

16 Q. Okay. So assuming -- if it's not a holiday  
17 season?

18 A. Um-hum.

19 Q. -- what was the company policy in terms of  
20 making the bank deposits?

21 A. The bank deposits would be made between --  
22 again, depending upon where it is. Like here in  
23 San Francisco, downtown area, they had to make it  
24 between a certain time because of where they were at.  
25 And we would say, "You need to make it between" -- I

1 think we changed it to 4:00, between 4:00 to 6:00. Most  
2 everybody else did it at closing, and they would go to  
3 the bank after the store closed.

4 Now --

5 Q. So how many close -- how many bank deposits --  
6 again, we're not talking about the holiday season now.  
7 How many bank deposits were supposed to be made during  
8 the day; was it only one, generally?

9 A. Only one, but we had high, high-volume stores in  
10 certain areas. I only had two of them, so -- but, like,  
11 in parts of Los Angeles, you know, different places in  
12 the country where it's real high volume, they would have  
13 to make midday deposits.

14 Q. Okay. So when you say you only had two stores  
15 that were high volume, as you've described it, what  
16 stores were those?

17 A. I had one up in Sacramento. And I'm trying to  
18 think where the other one was at at that time. I'm  
19 sorry, I can't remember the other store. I remember one  
20 was in Sacramento. The store I'm thinking about  
21 eventually, it was reduced from a high-volume store  
22 because of sales.

23 Q. Where was that?

24 A. Redwood City.

25 Q. So there was one store in Sacramento, one in

1 Redwood City?

2 A. Uh-huh.

3 Q. Any others?

4 A. Not that I can remember. But they could also --  
5 at their discretion, if they had large amounts, they  
6 could make a midday deposit to get their money out of  
7 there.

8 Q. So you're saying any store at their discretion  
9 could make a midday deposit?

10 A. Yes.

11 Q. All right. So if we're not talking about one of  
12 the two stores that you just talked about, and we're not  
13 talking about the holiday season, am I correct in  
14 understanding that the deposits were then to be made  
15 later in each day?

16 A. Yes.

17 Q. Okay. So for most stores -- so, what time was  
18 the deposit supposed to be made? Again, we're not  
19 talking about the two high-volume stores and we're not  
20 talking about the holiday season. When would the  
21 deposits typically be made?

22 A. Okay. Are we talking about downtown  
23 San Francisco or are we talking about the overall?

24 Q. Okay. So when you say, "downtown San  
25 Francisco," what do you mean by that?

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1 A. We had two -- two stores, one at this -- at  
2 Frank's store, 3830.

3 Q. Okay. So one store that -- you're considering  
4 3830 to be a downtown store?

5 A. Yeah.

6 Q. Okay. What else was a downtown store the way  
7 you're using the term?

8 A. Um, the other end of Market Street. Cannot  
9 think of the store number.

10 Q. Where on Market was it located?

11 A. It's down in the business area.

12 Q. What do you mean, "the business area"?

13 A. Down here somewhere. It's right on Market  
14 Street. I can't really explain. It's the business  
15 area, we had a store there.

16 Q. So Mr. Allen's store was on Market Street, as  
17 well, right?

18 A. Um-hum.

19 Q. Is that "yes"?

20 A. Yes.

21 Q. Okay. So the two stores that you're referring  
22 to as "downtown San Francisco" are two stores located on  
23 Market Street, right?

24 A. Correct.

25 Q. Were there any other stores that you considered

1 "downtown San Francisco" stores?

2 A. No.

3 Q. So with respect to the two stores that you're  
4 referring to as "downtown San Francisco," what was your  
5 understanding, during your employment, of the policies  
6 with regard to making the deposits?

7 A. Um, again, this became -- with the district  
8 manager, regional manager approval -- and they did  
9 something at Fort Worth where they got approval, where  
10 they could make the deposit earlier.

11 Q. Okay. So when you say to "make the deposit  
12 earlier," what do you mean by that?

13 A. Um, they can make the deposit between 4:00 and  
14 6:00.

15 Q. So does that mean that those two stores were  
16 required to make the deposit between 4:00 and 6:00?

17 A. No, they just gave them an option to do that.  
18 Because we have complaints from the managers -- the  
19 manager down there at the store -- the other store,  
20 which I don't remember the number -- that he was afraid  
21 that he would be robbed.

22 Q. Okay.

23 A. So --

24 Q. So let me make sure. In those two stores,  
25 Mr. Allen's store and the other Market Street store,



1 those store managers had the option of making a bank  
2 deposit either between 4:00 and 6:00 p.m., or after  
3 closing?

4 A. After closing, yes.

5 Q. And it was just up to the store manager's  
6 discretion?

7 A. Right, correct.

8 Q. And what time was the closing of those two  
9 stores?

10 A. I would say --

11 MS. VERONESE: Don't guess.

12 MS. THOMPSON: Q. Well, if you don't know --

13 A. Okay. I don't know.

14 Q. Okay. That's fine.

15 A. Okay.

16 Q. All right. We're going back to -- I'm sorry --  
17 what you described as the regular visits that you would  
18 make, and I was asking you what kinds of things would  
19 you be looking for, and I think I started to ask you  
20 about paperwork. Would you be reviewing -- you  
21 mentioned bank deposits.

22 A. Um-hum.

23 Q. Was there any other paperwork that you would  
24 look at on one of the regular visits?

25 A. I would also sometimes look at voids and

1     refunds.

2     Q.        I'm sorry?

3     A.        Voids and refunds.

4     Q.        And what do you mean by that; what would you be  
5     looking at?

6     A.        I would be making sure that the customer signed  
7     them, that the manager reviewed the voids and signed  
8     them.

9     Q.        Why were you doing that?

10    A.        To make sure -- the policy behind that was the  
11    manager had to review them to make sure that the  
12    merchandise was there, and that he approved these  
13    things.

14    Q.        So basically you're making sure that company  
15    policy was being followed?

16    A.        Correct.

17    Q.        What other paperwork would you look at on a  
18    regular visit at the store, to determine whether there  
19    was compliance with company policy?

20    A.        From what I remember, that was about it.

21    Q.        Okay. Was part of your job to make sure that  
22    merchandise was properly secured on the sales floor?

23    A.        Yes.

24    Q.        What would you be looking for there?

25    A.        We had alarms and things for certain

1 merchandise, the bigger merchandise. We would test it  
2 to make sure the alarms are working.

3 Q. Okay. Other than testing for the alarms, would  
4 you do anything else to make sure merchandise was  
5 properly secured?

6 A. Well, we also had security pegs that had a  
7 little magnet thing to them.

8 Q. When you say -- are those called the locking  
9 pegs?

10 A. Locking pegs, yes.

11 Q. And what would you be looking for with respect  
12 to the locking pegs?

13 A. I would go around and check them to make sure  
14 they were locked.

15 Q. Now, when you were doing a regular visit, did  
16 you have any kind of checklist that you were using?

17 A. For the visit?

18 Q. Yes.

19 A. Um, not really. It was just certain things they  
20 wanted us to look at, you know, when we did a visit.  
21 During my training this is what they talked about, so --

22 Q. But what I'm trying to understand is whether,  
23 when you actually went to the store, did you have any  
24 kind of documentation or checklist with you that you  
25 would go down to make sure you were covering everything

1     you needed to cover?

2     A.        No.

3     Q.        Was it your practice to write some kind of  
4     report after a regular visit?

5     A.        Yes.

6     Q.        Would you do these visits by yourself, or would  
7     the district manager be with you, typically?

8     A.        Not typically, but they would be with us  
9     sometimes, once in a great while.

10    Q.        I'm sorry. Most of the great while, the  
11    district manager would be present with you?

12    A.        No.

13    Q.        Okay.

14    A.        Once in a great while they would be with me.

15    Q.        Okay.

16    A.        It was far and between when they were with me.

17    Q.        So most of the visits you would do by yourself;  
18    is that --

19    A.        Yes.

20    Q.        -- a fair statement?

21    A.        Um-hum.

22    Q.        Now, would the store manager typically be  
23    present while you were doing the regular visit, or not?

24    A.        I might walk into a store, and there's a store  
25    manager doing stuff with the -- with the -- let me start

1 over -- the district manager with the store manager  
2 doing something about the store. And I'm just doing a  
3 visit, look over some things and I'm taking off after.

4 Q. So my question was this time just about the  
5 store manager. Typically, would the store manager be  
6 present on one of your visits, or not?

7 A. No, doesn't have to be.

8 Q. Okay. Well, if a store manager was present  
9 during one of your visits, regular visits, would you  
10 have interaction with him or her while you were  
11 conducting your review?

12 A. Yes.

13 Q. Would you ask the store manager to kind of  
14 follow you around the store while you were conducting  
15 your compliance review?

16 A. No. That would be more at the end.

17 Q. Okay. So your practice would be that you would  
18 basically conduct the review, yourself -- by the way,  
19 how long would these regular visits typically take, on  
20 average?

21 A. Twenty minutes to half hour.

22 Q. So once you were finished with your review,  
23 would it be your practice, then, to meet with the store  
24 manager?

25 A. Yes.

1 Q. Would you be writing some kind of documentation  
2 about your visit?

3 A. Yes.

4 Q. Would you review the documentation with the  
5 store manager?

6 A. Yes.

7 Q. And then what would you do with the  
8 documentation once you finished your review and left the  
9 store?

10 A. I would then forward it on to the district  
11 manager.

12 Q. Other than forwarding it to the district  
13 manager, did you forward the documentation of the store  
14 visit to anyone else?

15 A. Um, usually the regional manager.

16 Q. The regional manager?

17 A. Um-hum.

18 Q. I'm sorry, "yes"?

19 A. Yes. I'm sorry.

20 Q. When you say the regional manager, do you mean,  
21 like, the regional sales director or the regional loss  
22 prevention --

23 A. It would go there, too. He would get a copy,  
24 the regional manager of stores would get a copy, um, and  
25 then I would send my copy on to, like, Fort Worth,

1 because you have, like, a list of things to send it out  
2 to, and we kept the hard copy.

3 Q. And you kept a hard copy in the office in  
4 San Ramon?

5 A. Um-hum.

6 Q. Is that "yes"?

7 A. Yes.

8 Q. Okay.

9 A. I'm sorry.

10 Q. And would you also send a copy to -- well, you  
11 said Tom Schultz was pretty much running the San Ramon  
12 office during the 2000 to 2009 period, at least from the  
13 store perspective, is that -- did I understand that  
14 correctly?

15 A. Yeah, kind of. He had already become the vice  
16 president. Duncan had taken over then. And I would  
17 send stuff to Duncan.

18 Q. Oh, I see. Okay.

19 A. But that was only for, like, a year and a half.

20 Q. So while Duncan was there, you would send  
21 reports to Duncan, and when Duncan -- during the rest of  
22 the time when Duncan wasn't working at Radio Shack, it  
23 would all go to Tom Schultz?

24 A. Right, because he would then take over for a  
25 while.

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1 Q. Did you have the ability to recommend  
2 disciplinary action of any employee for violations of  
3 company policy with respect to loss prevention?

4 A. What I would do then, after I do a visit, if  
5 there was problems in there, I would write what they  
6 call a VOCP, violation of company policy, and send that  
7 to the district manager and the regional manager; there  
8 was a copy to them. It was up to the district manager  
9 then to do disciplinary actions. It wasn't my job to do  
10 that or give recommendations.

11 Q. Okay. So you never made any recommendations for  
12 disciplinary action?

13 A. No. They would ask me, and I would say, you  
14 know, "Our history of things like this, other district  
15 managers have terminated; others" -- because they would  
16 always say, "What do you think I should do?" Especially  
17 new district managers. "What do you think I should do?"  
18 I says, "Well, history, if you want to be continuous," I  
19 said "some would do this, some would do this. You're  
20 the district manager."

21 Q. Okay.

22 A. "You can make your mind up."

23 Q. So, just making sure I understand your  
24 testimony, then, you might be asked for your  
25 recommendation, but your policy and practice was to say,



1 "That's not my job to give recommendations"?

2 A. Correct.

3 Q. "That's your job, District Manager"?

4 A. Correct.

5 Q. Okay. So, in terms of how you view your role,  
6 you were basically simply presenting the facts?

7 A. Yes.

8 Q. And then it was up to the district manager to  
9 decide what, if any, disciplinary action should be  
10 imposed?

11 A. Right. That's on VOCPs, I should tell you that  
12 right now.

13 Q. What other kind of write-ups did you do besides  
14 VOCPs?

15 A. Investigations into theft.

16 Q. So would you make -- once you completed an  
17 investigation into theft, would it be your policy or  
18 practice to make recommendations for disciplinary  
19 action?

20 A. The policy was, is that we could either have the  
21 person arrested or we would turn it over to the district  
22 manager. If the district manager goes, "well, gee, you  
23 know, he" --

24 THE REPORTER: Slow down.

25 MS. THOMPSON: Q. Yeah, this is really hard.

1 Sorry.

2 A. Well, if -- if -- "I'm looking to just demote  
3 him."

4 "No, this is a terminable offense. He stole  
5 from us. We terminate people for this. And it wouldn't  
6 look good if we had somebody arrested and we kept them,"  
7 so --

8 Q. So you would take a more affirmative position  
9 with respect to recommending disciplinary action or  
10 termination in the event of employee theft?

11 A. Employee theft would only be termination.

12 Q. So, all right. And you viewed your job, in the  
13 instances of employee theft, to tell the district  
14 manager --

15 A. Advise. Advise.

16 Q. Okay.

17 A. Not tell.

18 Q. To recommend to the district manager that the  
19 store employee be terminated?

20 A. Usually they knew what to do, the district  
21 managers. It was usually the newer district managers  
22 who didn't know what to do.

23 Q. Okay. But you saw your role in that situation,  
24 where you were dealing with employee theft, to make a  
25 specific recommendation for termination when needed?

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1 A. When needed, yes.

2 Q. So, let's go back to the VOCP situation. Was a  
3 VOCP, to your understanding, a disciplinary document?

4 A. From what I understand, yes.

5 Q. Okay. And was there a particular form that was  
6 used for a VOCP?

7 A. It wasn't a form. It was a thing that said  
8 VOCP, and then we typed out what the violation is,  
9 da-da-da-da-da, and then we would send it off to the  
10 district manager.

11 Q. Okay. So, what circumstances would cause you to  
12 come to the conclusion that there had been a violation  
13 of company policy?

14 A. Uh, for instance, say I went into a store and I  
15 went to the back room and the cage was unlocked. First  
16 thing I would do, I would note it down in my first  
17 report and tell the manager, you know, "You can't do  
18 this," you know, "You must make sure this is locked at  
19 all times; this is the policy of the company."

20 Let's say I came back three, four months from  
21 then, I walk in -- because now maybe I'm doing an audit  
22 or investigation. I walk in, there's the cage unlocked,  
23 you know. This time I would do a VOCP.

24 Q. All right. So let me make sure I understand  
25 something. So the first time you would go in and you

1 would see the cage unlocked, for example, that, itself,  
2 would be a violation of company policy, right?

3 A. Correct. Yes.

4 Q. But in your mind, you would make the judgment  
5 that, "Well, this is the first time I've seen this.  
6 I'll point it out to the store manager, but I'm not  
7 going to write up a VOCP"; is that true?

8 A. No, that's not true.

9 Q. Okay.

10 A. I would put it in my -- my -- my visitor's notes  
11 that, "Upon arrival, I found the cage unlocked; I  
12 reviewed this with the store manager."

13 Q. Okay. And would you write up -- it was a  
14 violation of policy, right?

15 A. Right.

16 Q. So would you then write-up a VOCP?

17 A. Uh, it depended upon if it was a brand-new  
18 manager, okay, because they're kind of still learning  
19 how to do their job, so --

20 Q. So if it was a brand-new manager, are you saying  
21 you would not write the person up?

22 A. No, 'cause I would want the district manager to  
23 sit down with him and go over this with him.

24 Q. Okay.

25 A. So that would be a training issue.

1 Q. So if it was a brand-new manager, you would not  
2 write up a violation of company policy for the first  
3 offense?

4 A. Right.

5 Q. But if it was an experienced store manager,  
6 would you write up a VOCP?

7 A. Yes.

8 Q. Even if it was a first offense?

9 A. Usually on these things, they knew better. And  
10 again, I would write it up and the district manager  
11 could argue he's not going to do anything.

12 Q. Okay. No, I understand that. I'm just talking  
13 about writing up what you referred to as a VOCP.

14 A. Correct.

15 Q. Okay. So, again, if it's an experienced manager  
16 and you found any violation of company policy, it would  
17 be your practice to write up a VOCP; is that true?

18 THE WITNESS: Do you have a question?

19 MS. THOMPSON: Q. You don't have to look at  
20 her.

21 A. Okay. Okay.

22 Q. Yeah.

23 A. Uh, it would be -- again, let me -- I'm sorry.

24 MS. THOMPSON: Could you read it back?

25 (Record read by the reporter:

1           "Question: So, again, if it's an  
2           experienced manager and you found any  
3           violation of company policy, it would be  
4           your practice to write up a VOCP; is that  
5           true?")

6           THE WITNESS: Yes.

7           MS. THOMPSON: Q. And then as you testified, it  
8           would be up to the district manager to decide what  
9           disciplinary action, if any, was appropriate?

10          A. Correct.

11          Q. So was part of your job ensuring that store  
12          personnel complied with loss prevention policies and  
13          procedures?

14          A. Actually, yes and no, because the reason is, it  
15          was the store manager's responsibility to make sure that  
16          his people were doing -- giving -- he was giving the  
17          right direction, or she was giving the right directions  
18          to people for loss prevention.

19          Q. That was the store manager's responsibility?

20          A. Correct.

21          Q. And was it part of your responsibility, though,  
22          to make sure that the store manager was complying with  
23          loss prevention policies and procedures?

24          A. Correct.

25          Q. But in terms of actually making sure the store

1 employees were complying fully with all applicable loss  
2 prevention policies, you left that up to the store  
3 manager?

4 A. I left it up to the store manager, but there  
5 might be issues --

6 Q. Wait, I'm sorry. Did you leave it up to the  
7 store managers?

8 A. Yes.

9 Q. Okay.

10 A. But there would other -- there would be  
11 circumstances where the district managers go in a couple  
12 times, the regional manager's gone, and they find  
13 problems with the back door being left open all the time  
14 by the employees. They may say, "You know what? We  
15 need you to go in there and take a look at this. If you  
16 think the employees are not following policy, I want the  
17 individual -- the people to be written up on a VOCP, I  
18 want this" --

19 Q. Yeah, you're really -- this is really brutal for  
20 her. I know it's your normal way of speaking.

21 (Discussion off the record.)

22 MS. THOMPSON: Q. So I think what you were  
23 saying -- and correct me if I'm wrong -- I'm just trying  
24 to jog your memory -- there might be instances where the  
25 district manager would ask you to deal at the employee

1 level, as well?

2 A. Correct.

3 Q. Was there anything else you wanted to say about  
4 that? I don't mean to be --

5 A. Oh, no, it was just -- that would be the  
6 district manager, regional manager.

7 Q. The district manager or the regional manager  
8 might ask you to do what?

9 A. To go into the store, because when they went  
10 into the store for a visit, or whatever, they noticed  
11 that the back door was open. The store manager wasn't  
12 there that day. So they look at it as an employee  
13 issue. They would say, "Could you go by there, do a  
14 visit and see if that's a continuous prob" -- 'cause  
15 they might have addressed it to the employees already.  
16 So I may go into a store, see the back door open, then I  
17 write up an employee there on the VOCP.

18 Q. Okay. Now, if you were conducting a visit and  
19 writing up your report and you felt that there were  
20 violations of company policy -- let me withdraw that.

21 A. Can we have a break?

22 MS. THOMPSON: Oh, of course. That would be  
23 good, good for the court reporter, too.

24 (Recess taken.)

25 MS. THOMPSON: All right. We can go back on the



1 record.

2 Q. And again, Mr. Nabozny, any time you need a  
3 break, just let me know, okay?

4 A. (Witness nods head.)

5 Q. And a reminder to speak -- you know, even if it  
6 feels exaggerated to you, just talk as slowly as you  
7 can, and try to remember to wait for me to finish.

8 A. I'll try.

9 Q. I know. I know this is hard, and I'll try to  
10 remind you, but if I go like this, that means slow down.

11 (Discussion off the record.)

12 MS. THOMPSON: Okay. So we're back on the  
13 record.

14 Q. Now, you mentioned that -- I think you mentioned  
15 this -- and correct me if I'm wrong -- that training was  
16 one of your responsibilities?

17 A. Yes.

18 Q. Okay. So tell me what your responsibilities  
19 were with regard to training?

20 A. Well, there would be -- I would train new  
21 managers, be it at a meeting -- we'd have, like,  
22 training sessions. I would -- there would also be  
23 training sessions when I go into stores, work with  
24 different people. District meetings where the managers  
25 would come to a meeting.

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1 Q. Okay. So with new managers, would it be a new  
2 manager training session kind of thing --

3 A. Yes.

4 Q. -- or would it be one on one, or would it be  
5 both?

6 A. It would be both. I mean, actually, the one  
7 meeting would be we'd bring people into a district  
8 office, and I'd spend four or five hours going over loss  
9 prevention issues, things they need to do, how to do  
10 things, what to look for.

11 Q. Would you also do training at the store level?

12 A. Yes.

13 Q. And that would be with the store manager?

14 A. Yes.

15 Q. And would it also be with the store employees?

16 A. Usually, no. It would only be with the store  
17 managers, because it would usually be for a new store  
18 manager.

19 Q. Okay. So for new store managers, you would have  
20 a formal training session at a --

21 A. District office.

22 Q. At the district office. For new managers only?

23 A. For new managers only, yes.

24 Q. And then for new managers, also you might do  
25 one-on-one training at the person's store?

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1 A. Yes, after they went through this training -- if  
2 you remember, I told you I would go back to a store  
3 three to six months later.

4 Q. Okay. So you would have the formal training at  
5 the district office, and then a few months later you  
6 would go back and have one-on-one training with the new  
7 manager?

8 A. Yes. I'd spend maybe an hour, two hours with  
9 them at the store level.

10 Q. So was it your expectation that if the store  
11 manager was trained, that he or she would then take  
12 responsibility for the store employees' compliance with  
13 policies and procedures?

14 A. Yes.

15 Q. So you, yourself, were not responsible for  
16 making sure that the store employees were familiar with  
17 the company's loss prevention policies and practices; is  
18 that true?

19 A. Hmm, not really, 'cause, I mean, we really never  
20 did that many training sessions with employees.

21 Q. Did you, during the nine years, nine-plus years  
22 that you worked at Radio Shack, ever do training of  
23 store employees other than store managers?

24 A. We used to have what they call these Christmas  
25 meetings, where employees would come to the Christmas

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1 meeting. I would do it then, and it would only be for  
2 an hour.

3 Q. And during what period of time were these  
4 Christmas meetings taking place, what years?

5 A. 2000 to about 2006, maybe, 2007.

6 Q. Okay. And those Christmas meetings were  
7 suspended after about 2006, 2007?

8 A. From what I remember, you know.

9 Q. Okay.

10 A. They did things differently.

11 Q. So, again, other than the Christmas meetings,  
12 did you, yourself, ever engage in any training of store  
13 employees other than the store manager?

14 A. Well, at those meetings -- those meetings I  
15 mentioned, the store would be -- store associates would  
16 be there.

17 Q. Oh, okay.

18 A. We'd have --

19 Q. So what meetings would those be? When would you  
20 have meetings where all the store associates were  
21 present?

22 A. During the Christmastime.

23 Q. Okay. So, my question was other than that,  
24 okay?

25 A. Okay.

1 Q. So let me try the question again. So you said  
2 the Christmas meeting was a one-time meeting around the  
3 Christmas holidays where you would -- where all store  
4 personnel, including store associates and store  
5 managers, would be present, correct?

6 A. It wasn't -- it was a before-Christmas meeting.  
7 So it was, like, October, we'd have this meeting.

8 Q. Okay. So during the period 2000 to 2006, around  
9 October of each year, you would have what's called a  
10 Christmas meeting, correct?

11 A. The company would, the region or the district.  
12 Usually it's a region having this Christmas meeting.

13 Q. Okay. The region would have what you're calling  
14 the Christmas meeting around October of each year --

15 A. Yeah.

16 Q. -- during the period 2000 to 2006, correct?

17 A. Yes.

18 Q. And at that meeting, all store personnel,  
19 including store managers and store associates, would be  
20 expected to attend?

21 A. Correct.

22 Q. And would that be a one-day meeting?

23 A. Yes.

24 Q. And as part of that meeting, you would offer  
25 some training to all the employees assembled with regard

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1 to loss prevention?

2 A. Dealing with Christmas, yes.

3 Q. So the focus on this October meeting would be on  
4 loss prevention issues that might arise during the  
5 holiday season?

6 A. Correct.

7 Q. And you said that practice of having what you're  
8 referring to as Christmas meetings ended in about 2006?

9 A. The two separate meetings did. Then what they  
10 did is they just brought everybody together. I never  
11 knew who the associates were, and we had managers and  
12 associates together.

13 Q. All right. Now you're really confusing me. You  
14 just described a practice from 2000 to 2006 --

15 A. Correct.

16 Q. -- of the annual meeting for the region that  
17 took place in October where everybody was present.  
18 Right?

19 A. Correct. One would be a store manager meeting  
20 for Christmas, where it would be all, "Let's go, team,"  
21 and then the other one, within about a week later, would  
22 be just for the associates, the same thing. And at each  
23 meeting, I would talk.

24 Q. All right. So now I think I'm clear, then.

25 So this -- what you're referring to as the

1     October meeting, there would be one meeting for all  
2     store managers in a region, correct?

3     A.         Correct.

4     Q.         And then there would be a second meeting around  
5     the same time frame, where all store associates would be  
6     present?

7     A.         Correct.

8     Q.         And this all happened during the period roughly  
9     2000 to 2006, correct?

10    A.         Correct.

11    Q.         Okay. And during the store manager meeting and  
12    the associate meeting, you would make a presentation  
13    about loss prevention issues that were particularly  
14    relevant to the holiday season?

15    A.         Correct.

16    Q.         Okay. So other than this --

17    A.         Okay.

18    Q.         -- Christmas -- yes.

19    A.         I have to stop you, because you forgot to  
20    mention the other part. They stopped that part, but  
21    then they changed it, where we'd have these three-day  
22    meetings, where associates and managers would come  
23    together.

24    Q.         Okay. So when did the practice start of having  
25    the three-day meetings that you just described?

1 A. Oh, I would say around 2007, the next year, they  
2 decided it would be more efficient. And the reason --

3 Q. Okay.

4 A. Okay. And it wouldn't be at the same place. It  
5 would be different places. That's why it was three  
6 days.

7 Q. All right. So at some point starting in around  
8 2007 until the time -- and it continued through the time  
9 you left --

10 A. Um-hum.

11 Q. -- correct?

12 A. Yes.

13 Q. -- there would be three-day training meetings in  
14 the region; is that right?

15 A. Well, I don't know if you'd call them training.  
16 It was mostly Christmas things, what we're selling, how  
17 to do it, what they wanted you to do, things like that.  
18 It was more of a Christmas --

19 Q. Okay.

20 A. My thing was to go in and just talk about  
21 Christmastime.

22 Q. All right. Again, so we're clear, then, so  
23 starting in about 2007, there would still be an annual  
24 Christmas meeting, but it would be over three days?

25 A. Correct.



1 Q. And starting in 2007 for the three-day -- for  
2 these three-day meetings, would store associates  
3 participate?

4 A. Yes.

5 Q. And so would the store managers?

6 A. Yes.

7 Q. And so would district managers?

8 A. Yes.

9 Q. Okay. Was everybody at all these meetings all  
10 together, or were the meetings separate for store  
11 associates?

12 A. No, they would be all together.

13 Q. So, again, these three-day meetings took place  
14 around the holiday season, correct?

15 A. Before the holiday season.

16 Q. So October?

17 A. October, yeah.

18 Q. Okay. So the company had October meetings  
19 focused on the holiday season throughout the entire  
20 period of your employment; is that what you're saying?

21 A. Correct, yes.

22 Q. And as part of those holiday meetings, you would  
23 have an opportunity to address the store associates as  
24 well as the store managers?

25 A. Correct.

1 Q. So other than those holiday meetings, which  
2 we've now covered pretty exhaustively, did you ever have  
3 any other training of store associates directly?

4 A. Not that I can remember.

5 Q. So the rest of the training that you  
6 participated in would be with respect to store managers;  
7 is that a fair statement?

8 A. Yes.

9 Q. Was it your opinion, based upon your experience  
10 and your years of work there, that Radio Shack took loss  
11 prevention issues seriously?

12 A. Yes.

13 Q. And was it part of your job to make sure that at  
14 least store managers consistently followed store  
15 policies and procedures?

16 A. Yes.

17 Q. And I take it you took that job seriously?

18 A. Yes.

19 Q. Did you know a district manager named  
20 Hani Alzaghari?

21 A. Yes.

22 Q. Did Hani -- am I pronouncing that right? Did  
23 you call him Hani or Hani?

24 A. Call him Hani.

25 Q. Hani. Okay. When did you first meet

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1 Mr. Alzaghari?

2 A. When he was a store manager.

3 Q. Do you remember what store he was the manager at  
4 when you met him?

5 A. Yes, a store in Fremont.

6 Q. Do you remember roughly when that was when you  
7 first met him?

8 A. I couldn't tell you. He -- you know, it was a  
9 while.

10 Q. Sometime in early 2000's?

11 A. Probably early 2000's. That's the best I can  
12 remember.

13 Q. And at some point, you became aware that  
14 Mr. Alzaghari was promoted to district manager?

15 A. Correct.

16 Q. Now, did you work with -- did you have occasion  
17 to work with Mr. Alzaghari while he was the store  
18 manager, while you were the regional loss prevention  
19 manager?

20 A. Yes.

21 Q. And did you form any opinion with respect to how  
22 well Mr. Alzaghari, as a store manager, was doing in  
23 complying with Radio Shack policies and procedures that  
24 deal with loss prevention?

25 A. Yeah, from what I remember, yeah.

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1 Q. And what was your opinion?

2 A. He did a good job.

3 Q. Now, when Mr. Alzaghari was promoted to district  
4 manager, did you also have occasion to work with him on  
5 a professional level in your capacity as regional loss  
6 prevention manager?

7 A. Yes. One of the policies of the company is when  
8 a new district manager became a district manager, I have  
9 to spend at least a day or two with him, where he  
10 shadowed me going to different stores, and we would go  
11 over different responsibilities and what his  
12 responsibilities were for loss prevention.

13 Q. And did you do that with Mr. Alzaghari?

14 A. Yes.

15 Q. And even after that initial meeting with  
16 Mr. Alzaghari, did you have kind of an ongoing working  
17 relationship with him in his capacity as district  
18 manager while you were the regional loss prevention  
19 manager?

20 A. Yes.

21 Q. And did you form an opinion with respect to  
22 Mr. Hani's compliance with Radio Shack loss prevention  
23 policies and procedures as a district manager?

24 A. I'm -- I don't know what you're asking me.

25 Q. Okay. You don't understand the question?

1 A. Yeah, I don't. I mean --

2 Q. Okay. Well, was part of your job just making  
3 sure that store managers and district managers were  
4 familiar with and complied with Radio Shack loss  
5 prevention company policies and procedures?

6 A. Yeah, I would say yes.

7 Q. Okay. So, in connection with that, I'm just  
8 trying to figure out whether you ever formed an opinion  
9 with respect to how well Hani Alzaghari was performing  
10 that part of his job.

11 A. Oh, okay. I would say he did a good job.

12 Q. Did you have any concerns about Mr. Alzaghari's  
13 ability to comply with Radio Shack's loss prevention  
14 policies and procedures?

15 MS. VERONESE: When he was the district manager?

16 MS. THOMPSON: Right.

17 THE WITNESS: I didn't have any problems.

18 MS. THOMPSON: Q. Okay.

19 A. That I can remember. I mean ....

20 Q. Would you characterize your working relationship  
21 with Mr. Alzaghari as a positive one?

22 A. Yes.

23 Q. Did you like working with Mr. Alzaghari?

24 A. Yes.

25 Q. Did you believe that basically he was doing a

1 good job as a district manager?

2 A. Yes.

3 Q. Did you believe that he was -- from what you  
4 could observe, was he fair?

5 A. I think he was fair.

6 Q. Did you believe that he was an honest person?

7 A. I think he was an honest person.

8 Q. As you sit here now, do you have any reason at  
9 all to question Mr. Alzaghari's integrity or honesty?

10 A. No.

11 Q. Did you ever know Mr. Alzaghari to lie?

12 MS. VERONESE: Vague.

13 THE WITNESS: That's -- I could say I don't  
14 remember. I don't remember ever having an issue with  
15 him --

16 MS. THOMPSON: Q. Okay.

17 A. -- you know.

18 Q. So I'm just asking you -- I mean --

19 A. I know.

20 Q. All I'm trying to find out is what you know or  
21 what you remember. So my question again is, based upon  
22 your interactions with him, did you ever know  
23 Mr. Alzaghari to lie or be untruthful?

24 A. To be honest with you, no, I just ... never had  
25 an issue with him.

1 Q. Have you ever heard of something called "cage  
2 counts"?

3 A. Yes.

4 Q. While you were at Radio Shack?

5 A. Yes.

6 Q. Okay. Can you tell me what your understanding  
7 is of "cage counts"?

8 A. The manager had to take his -- oh, I forget what  
9 it was called. We had a system where we could pull up  
10 the system and know how much -- what merchandise was in  
11 the cage.

12 Q. And just so we're clear on the record, the cage  
13 is a locked facility in the stockroom in which  
14 high-value merchandise was stored?

15 A. Correct.

16 MS. THOMPSON: I'm sorry. Could you read back  
17 his prior answer?

18 (Record read by the reporter:

19 "Question: The manager had to take his --  
20 oh, I forget what it was called. We had a  
21 system where we could pull up the system and  
22 know how much -- what merchandise was in the  
23 cage.")

24 MS. THOMPSON: Q. So in terms of conducting a  
25 cage count, how would a store manager go about doing

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1 that?

2 A. He could pull up -- again, I don't remember the  
3 report. He would pull it up and he would know how many,  
4 for instance, cell phones. And each one had a SKU on  
5 it. They could take that SKU, go to the cage and count  
6 how many cell phones are in there for that one SKU.  
7 They would then match it against the -- what was on the  
8 inventory.

9 Q. And what was the purpose of doing a cage count?

10 A. To make sure nothing was missing.

11 Q. And how frequently was the manager supposed to,  
12 under company policy and procedure, conduct a cage  
13 count, as you've described it?

14 A. Once a week.

15 Q. Was it important that a store manager do that  
16 every week?

17 A. Um-hum.

18 Q. Is that "yes"?

19 A. Yes. Yes.

20 Q. Why was that important?

21 A. To make sure that nothing had disappeared, see  
22 if we had a theft issue or inventory problem with  
23 shipments.

24 Q. Did you ever write up any store manager for  
25 failing to conduct a cage count?



1 A. I -- I suppose I did. I don't remember. I --

2 MS. VERONESE: You don't remember.

3 MS. THOMPSON: Q. Okay. So do you -- I realize  
4 you might not remember any specific incidents, but is  
5 that the kind of thing -- failure to conduct a weekly  
6 cage count, would that be a topic or reason why you  
7 might write up a VOCP?

8 A. Yes. And just to put in, we would do it like a  
9 visit. Remember the visits I talked about, and audits?  
10 That would be part of it.

11 Q. So the cage count -- your reviewing of the cage  
12 count would be part of the regular visit you've  
13 described?

14 A. Yeah.

15 Q. Would it also be part of the full-blown audit  
16 you've described?

17 A. Yes.

18 Q. So the cage count was something that was  
19 important?

20 A. Yes.

21 Q. And is that something -- a policy that you would  
22 expect an experienced store manager to know, that they  
23 would be required to do a weekly cage count?

24 MS. VERONESE: Calls --

25 THE WITNESS: Yes.

1 MS. THOMPSON: Q. So in your mind, if a store  
2 manager missed a weekly cage count, would that be, in  
3 your mind, a serious violation of company policy?

4 You don't have to look at her. She's not asking  
5 you to look at her.

6 A. Yeah, if -- again, if we walked into the store  
7 and -- you're asking every manager? Remember, I  
8 mentioned before, new managers, okay, compared to  
9 experienced managers, okay? If we walked in and we  
10 found the cage, the counts were off, manager wasn't  
11 doing them, he would be written up on a VOCP.

12 MS. THOMPSON: Can I have my question read back?  
13 I just want to make sure I get an answer to that.

14 (Record read by the reporter:

15 "Question: So in your mind, if a store  
16 manager missed a weekly cage count, would  
17 that be, in your mind, a serious violation  
18 of company policy?")

19 THE WITNESS: Yes.

20 MS. THOMPSON: Q. Okay. Were store managers  
21 responsible -- again, while you were working at Radio  
22 Shack -- for monitoring cash shortages in their store?

23 A. Yes.

24 Q. And what is the definition of a cash shortage?

25 A. Anything over five dollars. I think we set a

1 limit to that.

2 Q. Okay. So anything over five dollars compared to  
3 what, can you just explain to me what a cash shortage  
4 is.

5 A. If they counted down their drawer and they're  
6 missing five dollars or more, they would have to -- it  
7 would be automatically -- when they would print up at  
8 the end of the day -- I forget what the sheet's called;  
9 I think it was called the deposit sheet or something --  
10 and on there it would show that they were five dollars  
11 short.

12 Q. Okay. So if a cash short -- "short" meaning  
13 that the register was showing that there should be a  
14 certain dollar -- that the computer was showing that  
15 there should be a certain dollar amount in the cash  
16 register?

17 A. Correct.

18 Q. But the actual cash would come up somewhat less  
19 than what the computer said it should contain?

20 A. Correct.

21 Q. And so if it was under five dollars, would that  
22 be noted anywhere in any kind of record or report?

23 A. It would show up on that report.

24 Q. And the report you're talking about is some kind  
25 of report that's printed at the end of each day?

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1 A. Yeah. I think it was called the daily deposit  
2 report; I don't remember.

3 Q. So all cash shortages would show up on the daily  
4 deposit report; is that right?

5 A. Yes.

6 Q. So what was the significance of having a cash  
7 shortage of five dollars or more?

8 A. For some reason, when we have reports that come  
9 out, it would automatically be flagged, anything over  
10 five dollars.

11 Q. And what was the store manager's responsibility  
12 if he or she had a cash shortage that was over five  
13 dollars?

14 A. They had to find it. If they couldn't find it,  
15 they would have to note it down in the report.

16 Q. Have to ...?

17 A. Note it in the report.

18 Q. When you say that the store manager would be  
19 responsible for finding it, meaning finding the cash  
20 shortage, how would a store manager go about doing that?

21 A. He would have to probably check -- again, there  
22 were different reports. He would look at his refunds;  
23 he would look on the actual daily of tickets that were  
24 written or -- on the printout sheet. I forget what  
25 that's called. And there he could go through sales and

1 look at the sales.

2 For instance, um, let's say a person rang a sale  
3 up and the customer said, "Oh, you know what? I don't  
4 want this, but I want that, the other item." They would  
5 say, "Okay." They would have to void the sale. They  
6 would forget to void the sale and ring up the next sale,  
7 causing the drawer to be short.

8 Q. So, when would the manager be responsible for  
9 finding the cash shortage, as you've described it; would  
10 it be that day or the next morning?

11 A. It depends. If he was doing the deposit himself  
12 that night, it would be that night he would look for it.  
13 If, let's say, the -- I forget what they're called,  
14 assistant -- whoever the other person was in the store  
15 that could do deposits -- would leave it for the manager  
16 the next day to look for when he came in.

17 Q. So was it your understanding in terms of Radio  
18 Shack company policies and procedures that it was the  
19 store manager's responsibility to find out what caused  
20 the cash shortage?

21 A. Yes.

22 Q. And that would be true for any cash shortage  
23 greater than five dollars?

24 A. Yeah, over or short.

25 Q. Okay. So -- I see.

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1 A. Right.

2 Q. So, in other words, you might have a cash  
3 overage?

4 A. Correct.

5 Q. So again, that would be a discrepancy, but that  
6 would be in favor of the company?

7 A. Yes, but it was still an over, and they needed  
8 to find out why.

9 Q. So either a shortage or overage of five dollars  
10 or more, it would be the store manager's responsibility  
11 with respect to each such shortage to find out why it  
12 occurred?

13 A. Correct.

14 Q. And the store manager was supposed to do this  
15 either the night of the deposit or the next morning?

16 A. Yes.

17 Q. And what was the store manager supposed to do  
18 with the information, once he or she located the cause?

19 A. Note it down on the report.

20 Q. And when you say, "Note it down on the report,"  
21 do you know what report we're talking about?

22 A. That bank report, whatever it was called.

23 Q. Was there any policy or practice requiring the  
24 store manager to notify either loss prevention or the  
25 district manager if there was a significant cash

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1 shortage?

2 A. Yes, anything over twenty dollars.

3 Q. So what was the policy, if they're -- would that  
4 be an overage or underage?

5 A. Usually an overage -- I mean a shortage.

6 Q. Okay.

7 A. But --

8 Q. I'm sorry. Did you want to clarify something?

9 A. Let's clarify one thing. What they would do is  
10 if they had an overage or shortage, they would wait till  
11 the next day to look for it to see if it would balance  
12 out before they would notify me.

13 Q. Okay. But your understanding of company policy  
14 was that if there was a cash shortage or overage that  
15 was greater than twenty dollars, the regional loss  
16 prevention manager was required to be notified?

17 A. Yes. Usually it came from either the store  
18 manager or the district manager.

19 Q. Was it your understanding that the store manager  
20 was required to notify his or her district manager if he  
21 or she found a cash shortage or overage greater than  
22 twenty dollars?

23 A. I'm going to drive you nuts now. Yes or no.  
24 Each district manager was different.

25 Q. Okay. Was it your understanding that the store

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1 manager had to notify somebody every time there was a  
2 shortage or overage greater than twenty dollars, or  
3 could they keep that information to themselves?

4 A. Usually, some district managers would report it,  
5 like, send me an e-mail. Some would wait until he had  
6 maybe a hundred dollars short for the whole week and  
7 then sent me the e-mail. It varied upon district  
8 manager.

9 Q. All I'm trying to find out, though, was the  
10 store manager allowed to keep cash shortages to him or  
11 herself, as opposed to reporting it up the chain to  
12 somebody?

13 A. Uh, well, they couldn't keep it to themselves,  
14 because everybody would know because of the report.  
15 Once it would go into Fort Worth, they would  
16 automatically know there was a shortage, so --

17 Q. Okay. I realize that there's thousands of  
18 stores, right, and thousands of reports. Whose  
19 responsibility was it to make sure that the company was  
20 notified of shortages or overages greater than twenty  
21 dollars?

22 A. What would happen is, okay, he would do this  
23 bank report. And it would go into Fort Worth. Forth  
24 Worth banking would then send out a daily report to me,  
25 the loss prevention manager, stating we had five-dollar

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1 shortage, okay? Anything over five dollars, it was a  
2 report.

3 And then we would look at it, whatever.  
4 Sometimes I would call the store, I would call the  
5 district manager and have them look into it.

6 Q. Okay. I'm still a little bit unclear. I  
7 thought that there was a difference once you hit twenty  
8 dollars or more. So what's the difference? When  
9 there's a shortage that's greater than twenty dollars --

10 A. Right.

11 Q. -- tell me what the store manager's  
12 responsibility is.

13 A. If he had a twenty-dollar shortage, he's to  
14 notify his district manager or they can notify me.  
15 Usually it was better for them if they notify their  
16 district manager. They would call me and say, "I had a  
17 twenty-dollar shortage" --

18 THE REPORTER: Okay. Whoa.

19 MS. THOMPSON: Yeah, yeah, yeah, yeah.

20 Q. Sorry. Can you start again?

21 A. Okay. They would -- if they had a  
22 twenty-dollar shortage, they would either notify me or  
23 the district manager.

24 Q. So it was the store manager's option, if they  
25 had a shortage that was greater than twenty dollars, to

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1 either notify their district manager or to notify loss  
2 prevention; is that right?

3 A. Correct.

4 Q. But they had to report it to one or the other;  
5 is that a fair statement?

6 A. Yeah, they did.

7 Q. And then what would -- and would these cash  
8 shortages, whether they were reported directly to you or  
9 whether they were reported to you through the district  
10 manager, what would be your responsibility, then, with  
11 respect to that shortage?

12 A. Most of the time I would say, "What's the  
13 history?"

14 Q. Now, what would happen if a store manager did  
15 not note on the daily report that you're referring to  
16 that there was a cash shortage over twenty dollars?

17 A. Again, the report would automatically show there  
18 was a twenty-dollar shortage. That would go into the  
19 Fort Worth banking department.

20 Q. And what would Forth Worth banking do with that  
21 information, to your understanding?

22 A. They would send a report out to me saying, "The  
23 store was short twenty dollars," or "The store was over  
24 twenty dollars," you know, "Can you research it?"

25 Q. So ultimately, it would come back to loss

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1 prevention; is that right?

2 A. Correct. But I would -- besides me, the  
3 district manager would also get that same report.

4 Q. Okay. I get that.

5 A. Okay.

6 Q. So if you learned of a significant cash shortage  
7 at a particular store, let's say a hundred dollars,  
8 would that be significant?

9 A. Yes.

10 Q. What, if anything, would you do about it?

11 A. We would run all -- first we would run the  
12 report, see who was working, things like that. And it  
13 would depend. If it was a hundred-dollar shortage, was  
14 it one \$100 shortage or for a period of time, for, like,  
15 say the month there was a hundred-dollar shortage?

16 Q. Right.

17 A. Each time we had to look at it differently. If  
18 it was just a hundred-dollar shortage, we kind of waited  
19 until the bank cleared it, because sometimes the bank  
20 makes mistakes. So we would wait for that, come back,  
21 "Oh, we found it. We found out where we made our  
22 mistake"; it was a check or whatever.

23 If it was twenty dollars today, couple days  
24 later, another twenty dollars, and nothing cleared, we  
25 would say, "Okay, now we got an internal problem." I

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1 would have to go and investigate.

2 Q. So if there was a pattern of cumulative  
3 shortages over a period of time, would that be something  
4 that would cause you concern?

5 A. Yes.

6 Q. And why would it cause you concern?

7 A. Because we would have to think right off the bat  
8 the money's being stolen.

9 Q. Would that be important -- would it be important  
10 information for you to have, as loss prevention, that  
11 there was a cumulative history of cash shortages at a  
12 particular store?

13 A. Yes.

14 Q. Even if each individual shortage was relatively  
15 small?

16 A. Even -- again, it would depend upon if they  
17 cleared or not. Like, for instance, it was a  
18 five-dollar shortage, each -- say every other day we had  
19 a five-dollar shortage and they never came back, and all  
20 of a sudden the next week, it was ten dollars every  
21 other day, the next week, it became twenty dollars, then  
22 we would see a pattern of someone stealing the money.  
23 Then we would investigate that.

24 Q. Okay. So let's just assume that the shortages  
25 are not being cleared by the bank, but -- you're seeing

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1 not necessarily a pattern as you've just described, but  
2 you're seeing an ongoing history --

3 A. Correct.

4 Q. -- of cash shortages?

5 A. Um-hum.

6 Q. Is that "yes"?

7 A. Yes.

8 Q. That would be serious, in your mind?

9 A. Yes.

10 Q. And that would warrant an investigation?

11 A. Correct.

12 Q. And what would be the store manager's role in  
13 that investigation or that process?

14 A. Really, none. It would be my job now, along  
15 with the district manager. He could do some research  
16 for me.

17 Q. Well, would the store manager have some  
18 responsibility with respect to having a history of cash  
19 shortages like that?

20 A. Well, what we would look at is we would try to  
21 get timesheets -- which the district manager would work  
22 with me -- get timesheets so I could see who was working  
23 during what period of time, and then I would chart it  
24 out to see if Bob is still -- because every time, it  
25 might be Bob taking the money. Well, Bob and Bill were

1 always together; they might be the people I interview.

2 Q. Right, but I'm just trying to understand what  
3 responsibility, if any, the store manager would have in  
4 a situation where a store was showing an ongoing pattern  
5 of shortages.

6 A. He -- he would probably report it to the  
7 district manager, say, "I got a problem here."

8 Q. Would it be the store manager's responsibility  
9 to report an ongoing pattern of cash shortages to the  
10 district manager?

11 A. Yes.

12 Q. Would it be the store manager's responsibility  
13 to report an ongoing history of shortages to loss  
14 prevention?

15 A. Yes.

16 Q. So other than reporting it, would the store  
17 manager have any other responsibility with respect to  
18 the cash shortages?

19 A. It depended upon the store manager. New store  
20 managers had no clue. Experienced store manager's knew  
21 what to look for and would start researching it,  
22 themselves.

23 Q. That's what you would expect of an experienced  
24 store manager?

25 A. Sometimes.

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1 Q. What do you mean, "sometimes"?

2 A. Some district manager -- I'm sorry. Some store  
3 managers were more into really looking for the stuff.  
4 Others didn't do that stuff because they're more  
5 concerned about sales.

6 Q. Okay. But I'm just talking about in terms of  
7 your expectations as regional loss prevention manager.  
8 Would it be your expectation that a store manager who  
9 had a history of cash shortages, that that store manager  
10 would have some rule with respect to researching to find  
11 out why there was this problem in his or her store?

12 MS. VERONESE: Calls for speculation.

13 MS. THOMPSON: Can you read the question back.

14 (Record read.)

15 MS. THOMPSON: Q. Would that be your  
16 expectation as regional loss prevention manager at Radio  
17 Shack?

18 A. Again, I'd have to say it depended upon the  
19 manager.

20 Q. Okay. So, my question again would be if the  
21 store manager was an experienced store manager, had been  
22 with the company for a number of years, would you expect  
23 that store manager who -- if he or she had a history of  
24 ongoing cash shortages, that he or she would have some  
25 responsibility with respect to looking into why that was

1 occurring?

2 A. Again, it depended upon the manager. I have --  
3 you have to understand the mentality of our man -- the  
4 managers at Radio Shack. Some could care less of what's  
5 going on over here as long as their sales were up.

6 Q. Okay. So, again, I'm not asking about what the  
7 managers are thinking. I'm asking about what your  
8 expectations were, if you had any. If you didn't have  
9 any, you can tell me that.

10 A. On that situation, it's hard for me to answer  
11 that question, because I -- I would say yes and no. It  
12 depended upon the manager, to be very honest with you.

13 Q. So some store managers you would expect --

14 A. Yes.

15 MS. VERONESE: Let her finish the question.

16 MS. THOMPSON: Q. Yeah. And so some store  
17 managers you're saying you would expect that they would  
18 take some ownership of an ongoing cash shortage problem  
19 and take some interest in trying to find out why it  
20 happened?

21 A. Yes.

22 Q. And you're saying some other store managers had  
23 no interest in that?

24 A. Correct.

25 Q. And as far as you were concerned, it made no



1 difference to you, whether --

2 MS. VERONESE: That misstates testimony.

3 MS. THOMPSON: Q. Well, that's what I'm asking.

4 A. I -- I -- explain the question. I mean, I'm --  
5 that's --

6 Q. Okay. I originally started off by asking what  
7 your expectation was.

8 A. Right.

9 Q. Okay. So, did it matter to you one way or the  
10 other, as regional loss prevention manager, whether a  
11 store manager with a pattern of ongoing cash shortages  
12 took an interest in that or decided they weren't  
13 interested; would that matter to you in any way?

14 A. Yes.

15 Q. Okay. What difference would it make to you?

16 A. That I would see managers that had concern about  
17 things like that, um, were more into making sure that  
18 their store ran properly, and that anything with the  
19 store, they brought it up right away, any kind of issues  
20 or whatever, be it cash shortages, inventory, whatever.

21 Q. And was it the store manager's responsibility,  
22 as far as you knew, to make sure that their store was  
23 running properly and that they weren't having ongoing  
24 cash shortages; was that part of their job?

25 A. Yeah, that's part of their job.

1 Q. So would it cause you some concern if you had a  
2 store manager who had an ongoing pattern of cash  
3 shortages, when that store manager showed absolutely no  
4 interest in finding out why that was occurring? Would  
5 that be a cause of concern to you?

6 A. Yes.

7 Q. And why would that be a cause of concern?

8 A. Because that would automatically make me start  
9 thinking he's the one that's taking the money. He's  
10 trying to hide something.

11 Q. What would lead you to that conclusion, or that  
12 inference?

13 A. For instance, if I went into a store and I said,  
14 "Bob, you've got all these cash shortages."

15 "Oh, yeah, yeah.

16 "What are you doing about it?

17 "Oh, I looked into it. I looked into it.

18 "Explain."

19 And find out he didn't do anything, and he was  
20 very nervous, then that would lead from me just talking  
21 to him into a full-blown investigation and interrogation  
22 of him.

23 Q. Would you expect an experienced store manager to  
24 be aware of any history of ongoing cash shortages in  
25 their store?

1 A. Again, the ones I mentioned, the ones that do  
2 things, yes, the ones that I would say really paid more  
3 attention to the operation of their store and the  
4 security of their store.

5 Q. But didn't all store managers have the same  
6 responsibilities with respect to the security and  
7 operation of their stores?

8 A. You would think so.

9 Q. Well, wasn't that, as a matter of company  
10 policy --

11 A. Yes, you would think so.

12 Q. Well, I'm not asking you what you would think,  
13 so let me make sure the record is clear. Isn't it true  
14 as a matter of company policy, based upon your  
15 experience at Radio Shack, that all store managers were  
16 expected to assume responsibility for the proper  
17 operation and protection of company assets?

18 A. Yes.

19 Q. And there was no difference -- some store  
20 managers weren't held to a higher standard than others  
21 with regard to the protection of company assets, were  
22 they?

23 A. No.

24 Q. Everyone was held to the same standards?

25 A. Yes.

1 Q. And you enforced those standards consistently  
2 across the board; is that true?

3 A. Well, I passed on the things to the district  
4 managers. It was their job to enforce them.

5 Q. But in terms of your reporting or writing up,  
6 you tried to be consistent across the board?

7 A. Yes.

8 Q. You didn't allow some store managers to get away  
9 with noncompliance while forcing others to adhere to the  
10 standards, did you?

11 A. Again, when it came to newer managers, you know,  
12 we'd have to -- we'd have to bend -- bend the -- bend  
13 the branch a little bit, because they're new.

14 Q. Okay. How long would you consider someone to be  
15 new, as you're using that term?

16 A. Um, new would be anywhere from two to three  
17 months, maybe up to six months.

18 Q. Okay. But after six months, your expectation  
19 would be that all store managers, regardless of who they  
20 were, where they worked, that they were all required to  
21 adhere to company policies and procedures with regard to  
22 loss prevention.

23 A. Correct.

24 Q. And that would include with respect to  
25 monitoring and reporting cash shortages?

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1 A. Yes.

2 Q. And being familiar with cash shortages in your  
3 own store?

4 A. Yes.

5 Q. So if you were a store manager and you wanted to  
6 find out if you were having a pattern of cash shortages  
7 in your store, how would you go about doing that?

8 MS. VERONESE: Calls for speculation. And a  
9 hypothetical. You can go ahead and answer. So if you  
10 were a store manager ....

11 THE WITNESS: I was never a store manager, so  
12 it's hard to understand their mentality.

13 MS. THOMPSON: Q. I'm not asking about  
14 mentality. So I'm just talking about logistics and what  
15 tools are available to you. So let's --

16 Can I have the question read back.

17 (Record read by the reporter:

18 "Question: So if you were a store manager  
19 and you wanted to find out if you were  
20 having a pattern of cash shortages in your  
21 store, how would you go about doing that?")

22 MS. VERONESE: Same objection.

23 MS. THOMPSON: Q. I'm just talking about what  
24 resources would be available to you, based on your  
25 knowledge in loss prevention.

1 A. Okay. What the managers would know to do, they  
2 can go back and review those bank reports.

3 Q. Review what?

4 A. The bank reports. They can review their sales  
5 for the day.

6 Q. Could they review profit and loss reports?

7 A. For the day?

8 Q. I'm not -- I didn't say for the day.

9 A. Okay.

10 Q. Could they review -- first of all, are you  
11 familiar with anything called "profit and" --

12 A. Yes.

13 Q. -- "loss reports"?

14 A. Yes. Comes out monthly.

15 Q. And it comes out monthly for each store; is that  
16 true?

17 A. Right. It's always a month behind.

18 Q. Okay. So what do you mean, it's a month behind?

19 A. So right now we're in October. So at the end of  
20 October, you're going to get September, because all the  
21 numbers haven't been done yet.

22 Q. Okay.

23 A. So you're always a month behind.

24 Q. All right. But the profit and loss reports  
25 would come out on a monthly basis -- a month behind, as

1 you've described -- for each and every store; is that  
2 right?

3 A. Right.

4 Q. And what information would be available on a  
5 profit and loss report?

6 A. A lot of things. I -- I'd have to see one in  
7 front of me to go over it. I just don't remember what  
8 was on it.

9 Q. Okay. But would a store manager, in  
10 reviewing -- well, first of all, was it your  
11 understanding that store managers would be expected to  
12 review their profit and loss reports for their store?

13 A. Yes, because they were trained for it.

14 Q. I'm sorry?

15 A. They were trained by the district manager for  
16 it.

17 Q. And how do you know they were trained by the  
18 district manager?

19 A. At that time, that was part of their training,  
20 how to review and go over a profit and loss statement.

21 Q. Did you have any role in this training?

22 A. No.

23 Q. So how do you know the training took place?

24 A. Because I've gone into these meetings beforehand  
25 where I walked in, and they were talking about profit

1 and loss.

2 Q. Okay. So you've been present at district  
3 meetings where store managers were being trained by  
4 their district manager to review profit and loss  
5 statements?

6 A. Yes.

7 Q. And it was your understanding that company  
8 policy was that store managers were to regularly review  
9 the profit and loss statements --

10 A. Yes.

11 Q. -- for their particular store?

12 A. Yes.

13 Q. Okay. And would a review of the profit and loss  
14 statements tell the store manager if there was a pattern  
15 or history of cash shortages at his or her store?

16 A. Yes, if the -- okay. Yes and no. The reason I  
17 say that is, because we have an experienced manager that  
18 can read that thing like a Bible, and then you have a  
19 brand-new manager. It all looks to him like just  
20 numbers.

21 Q. All right. So, I know you keep making that  
22 distinction, so next time I'll have to remember to call  
23 that out. So let's assume we're talking about  
24 experienced store managers.

25 A. Okay.



1 MS. THOMPSON: Could I have my question read  
2 back, please.

3 (Record read by the reporter:  
4 "Question: And would a review of the profit  
5 and loss statements tell the store manager  
6 if there was a pattern or history of cash  
7 shortages at his or her store?")

8 MS. THOMPSON: Q. So my question, assuming a  
9 store manager who's worked for Radio Shack for more than  
10 six months -- because by your testimony, after six  
11 months, you would consider the store manager  
12 experienced; is that a fair statement?

13 A. Yes.

14 Q. So if we're dealing with an experienced store  
15 manager, as you've defined --

16 MS. VERONESE: Well, misstates testimony. Okay.

17 MS. THOMPSON: Did I misstate anything?

18 MS. VERONESE: You said experienced manager. He  
19 didn't say six months he knew how to read the profit and  
20 loss reports.

21 MS. THOMPSON: That wasn't the question.

22 Could I have my question read back?

23 (Record read by the reporter:

24 "Question: So my question, assuming a store  
25 manager who's worked for Radio Shack for

1 more than six months -- because by your  
2 testimony, after six months, you would  
3 consider the store manager experienced; is  
4 that a fair statement?

5 "Answer: Yes.

6 "Question: So if we're dealing with a  
7 experienced store manager, as you've  
8 defined --

9 "Ms. Veronese: Well, misstates testimony.")

10 THE WITNESS: Experience in -- some of these  
11 people, even at that level, right, after six months,  
12 I've gone into stores where they haven't even looked at  
13 the P&L, profit and loss statement.

14 MS. THOMPSON: Q. Okay. If you walked into a  
15 store where the store manager had been with Radio Shack  
16 say, five, six, seven years --

17 A. Uh-huh.

18 Q. -- and they told you they did not know how to  
19 read a profit and loss statement, would that cause you  
20 some concern?

21 MS. VERONESE: Calls for hypothetical.

22 THE WITNESS: Yep.

23 MS. THOMPSON: Q. Was it your understanding,  
24 based upon your position in loss prevention, that it was  
25 part of the store manager's job duties and

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1 responsibilities to know how to read a profit and loss  
2 statement?

3 A. They were trained to do that, yes.

4 Q. And as far as you understood company policy, the  
5 expectation was that store managers were expected to  
6 read and understand profit and loss statements for their  
7 store, correct?

8 A. Correct.

9 Q. So, would it concern you, from a loss prevention  
10 standpoint, if you went into a Radio Shack store and you  
11 knew the manager had multiple years of experience --  
12 again, from a loss prevention standpoint, would it  
13 concern you if that manager said, "I don't know how to  
14 read these things"?

15 A. Yes. I would report it.

16 Q. How would you report that?

17 A. Write that up in a VOCP, or I could call the  
18 district manager personally and say, "I have a problem.  
19 Tom here is" -- "he's been with us how many years? I've  
20 just gone through his P&L's. He hasn't even looked at  
21 them. He hasn't made any notations."

22 Q. Why would that concern you, from a loss  
23 prevention standpoint?

24 A. Again, because there's many things in that  
25 profit and loss statement, not just cash shortages, as

1 you keep emphasizing there's a lot of things. You're  
2 talking about inventory levels. You're talking about --  
3 I can't remember everything that's on there. Um,  
4 electrical bills, things like that, you know, that they  
5 have to review to see -- 'cause they had to stay within  
6 their budget, you know.

7 Q. Right, but I'm talking about from a -- I  
8 understand from an operational standpoint why it  
9 obviously would be important, but I'm focusing  
10 specifically on loss prevention issues. From a loss  
11 prevention perspective, why would it concern you if a  
12 store manager told you that he or she did not know how  
13 to read the reports?

14 A. Well, that would be because it would give  
15 them -- give the store, employees or whoever, an  
16 opportunity to steal from the company, manipulating the  
17 system.

18 Q. How would it give the store employees an  
19 opportunity to steal or manipulate the system?

20 A. I'll give you a for-instance. UPS. All of a  
21 sudden, we have these tremendous charges on UPS because  
22 the employees are taking merchandise and shipping it to  
23 their friends all over -- all over the country, you  
24 know, down to Mexico or up to Canada, or whatever, and  
25 not paying for any of it. That's one way the

1 merchandise would get out of the store.

2 Q. So in other words, you would expect the store  
3 manager to review the profit and loss statement on a  
4 regular basis; is that a fair statement?

5 A. Yes, looking for things. Every month, they had  
6 to do it.

7 Q. So it was part of the store manager's job, as  
8 you understood it, to review the profit and loss  
9 statement every month when the report came out, right?

10 A. Correct.

11 Q. And their task in undertaking that review would  
12 be to identify any irregularities that might raise a red  
13 flag?

14 A. Correct.

15 Q. And if there were irregularities that should  
16 raise a red flag or did raise a red flag, what, if  
17 anything, would the store manager be expected to do with  
18 that information?

19 A. He would then have to call his district manager,  
20 who would then have to come down and review it with him.

21 Q. Would he or she also have the option of calling  
22 loss prevention directly?

23 A. When it came to the P&L, I rarely ever got any  
24 calls from managers on the P&L.

25 Q. Have there been any occasions over the course of

1 have the other thing coming to them every day.

2 Q. Okay. So you would expect an experienced and  
3 competent store manager to be reviewing the daily  
4 reports to determine whether there was an ongoing  
5 problem with cash shortages?

6 A. Correct.

7 Q. And in your mind, if a store manager waited  
8 until the profit and loss report came out to try to  
9 figure that out, they would not be doing their job  
10 properly, is that a fair statement, from a loss  
11 prevention standpoint?

12 A. Well, again, the issue is, all right, the  
13 manager would know about this, even the district manager  
14 would know about it, before that P&L came out. So what  
15 I'm trying to say is, really, that P&L report coming out  
16 for cash shortages would be kind of obsolete, because by  
17 now they had the cash shortages, and all the reports  
18 coming in from Fort Worth would have already alerted the  
19 district manager and myself and the store manager, too.

20 Q. Okay. So, I think I hear what you're saying --  
21 and correct me if I'm misunderstanding anything -- that  
22 the profit and loss statement was not the best vehicle  
23 for determining whether there was a cash shortage or  
24 not?

25 A. Correct.

1 Q. There were other and better and more timely  
2 reports that would give the store manager, the district  
3 manager and loss prevention that information?

4 A. Correct.

5 Q. Okay. That's fair enough.

6 A. Can we stop?

7 MS. THOMPSON: Absolutely. Let's go off the  
8 record.

9 (A lunch recess was taken from 12:53 to 1:35  
10 p.m.)

11 MS. THOMPSON: Q. The same ground rules  
12 continue to apply, Mr. Nabozny. And again, if at any  
13 time you need a break, just let me know and I will make  
14 sure I accommodate you.

15 A. Okay.

16 Q. Is it fair to say that the protection of company  
17 assets was an important part of the store manager's job  
18 at Radio Shack, based on your knowledge of company  
19 policies and procedures?

20 A. It was one of the -- one of the  
21 responsibilities.

22 Q. Well, in your mind, was it --

23 A. In my mind --

24 Q. -- was it your understanding that it was an  
25 important part of the store manager's job?

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1 A. Yes, in my mind, it was.

2 Q. Okay, but based on your understanding of company  
3 policy, was it an important part of the store manager's  
4 job? So I'm not just asking your opinion, I'm asking  
5 based upon the -- you know, in terms of what Radio Shack  
6 communicated to you in terms of its policies?

7 A. Again, the reason I say yes and no, it's because  
8 it would be something that, yes, they would have to do,  
9 but their managers -- district manager would say, "You  
10 know what? Your sales are low. You're doing a great  
11 job doing loss prevention, but you could bring your  
12 sales up."

13 Q. Well, I just want to make sure I understand  
14 something. Are you sitting here testifying that from  
15 Radio Shack's perspective, protection of company assets  
16 was not -- again, I'm talking about overall company  
17 policy --

18 A. Company policy.

19 Q. -- not your opinion --

20 A. Okay.

21 Q. -- not individual district managers.

22 A. Okay.

23 Q. I'm talking about company policy.

24 A. Okay.

25 Q. Is it your understanding of Radio Shack's

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1 corporate policy, based upon your working there for nine  
2 years as regional loss prevention manager, the  
3 protection of company assets was an important part of a  
4 store manager's job?

5 A. Yes.

6 Q. Do you have some understanding of why it was  
7 that Radio Shack made protection of company assets an  
8 important part of a store manager's job?

9 A. Yes, I think so.

10 Q. Okay. What's your understanding, based on your  
11 years of experience?

12 A. My understanding is because they are the first  
13 line of defense to protect the assets and profits of the  
14 company.

15 Q. Therefore, store managers were in an important  
16 position in terms of protecting --

17 A. Protecting --

18 Q. -- those assets?

19 A. Yes.

20 MS. THOMPSON: Okay. Let's mark the first, this  
21 document, as Exhibit 1.

22 (DEFENDANT'S EXHIBIT NO. 1  
23 WAS MARKED FOR IDENTIFICATION.)

24 MS. THOMPSON: For the record, I have marked as  
25 Exhibit 1 a two-page document Bates numbered RS/Allen222

1 and -223, which appears to be a memorandum dated  
2 February 20th, 2003, prepared by Tom Nabozny.

3 Q. And please take as much time as you need to read  
4 Exhibit 1, please, and let me know when you've finished.  
5 (Pause.)

6 A. Okay.

7 Q. Before we get into Exhibit 1, when did you first  
8 meet Frank Allen, approximately?

9 A. Sometime in maybe 2000.

10 Q. Okay. So fairly shortly after you started  
11 working at Radio Shack?

12 A. I would say within three to six months.

13 Q. Okay.

14 A. Yeah.

15 Q. And how did you meet Mr. Allen?

16 A. At a district manager's meeting, maybe.

17 Q. So are you -- is that your best recollection?

18 A. Yes. I don't remember.

19 Q. Okay. No, that's fair. If you don't remember,  
20 you can tell me you don't remember.

21 A. Okay.

22 Q. I'm just entitled to your best recollection --

23 A. Okay.

24 Q. -- okay? So, is it your best recollection that  
25 you first met Mr. Allen at a district meeting?

1 Q. That's a "yes" or "no."

2 A. "Yes" or "no," boy. "Yes" or "no"? It's, like,  
3 yeah, I mean, when I went in there, he was doing --  
4 doing what I -- you know, kind of what I wanted for loss  
5 prevention.

6 Q. Okay. So you're saying that on every occasion  
7 that you went to Mr. Allen's store, he was doing what  
8 you wanted him to do from a loss prevention standpoint?

9 A. Well, not every time, you know. I mean, there  
10 could be issues where he left the cage unlocked this  
11 time. Again, I'm going from memory. I don't remember  
12 every little thing.

13 Q. I'm not asking you that.

14 A. I know, I know, I know, but I just -- you're  
15 asking a question that you're --

16 Q. No, I'm asking you a very simple question, and  
17 that is -- and you can answer it "yes" or "no" -- and  
18 that is whether -- as you sit here now --

19 A. Right.

20 Q. -- whether you had any impression at the time --

21 A. Um-hum.

22 Q. -- of Mr. Allen's performance with respect to  
23 loss prevention. And that really is "yes" or "no."  
24 Because if you don't, we can move on; if you do, I'll  
25 ask you what it is.

1 A. I mean, I would say no, because there was issues  
2 where I wrote him up on things.

3 Q. Okay.

4 A. Okay?

5 Q. So you have no impression one way or the other?

6 A. Right.

7 Q. And as you've noted, you did have occasion to  
8 write him up for violations of company policy from time  
9 to time?

10 A. Yes.

11 Q. Do you know whether you wrote him up more  
12 frequently than other store managers in the district?

13 A. In the district, no, not really. I mean, I  
14 always tried to be fair, so I -- I mean, if there was  
15 something there, I wrote him up, no matter who he was.

16 Q. But all I'm -- again, just trying to find out.

17 A. I know.

18 Q. -- whether -- and if you don't have a  
19 recollection, that's fine.

20 A. Okay.

21 Q. All I'm trying to find out is what you remember  
22 and what you don't.

23 A. All right.

24 Q. So if you don't have a recollection, just tell  
25 me. I'm just trying to figure out, as you sit here now,

1 up Mr. Allen more frequently for violations of company  
2 policy than other managers in the district?

3 MS. VERONESE: Asked and answered.

4 MS. THOMPSON: Q. Is that --

5 A. Huh?

6 Q. Is that true?

7 A. Yes, that's the answer.

8 Q. I'm sorry?

9 A. Yes, that's the answer.

10 Q. Okay.

11 All right. Let's look back at Exhibit 1, if you  
12 don't mind. First of all, did you prepare Exhibit 1?

13 A. Yes. My name's on it.

14 Q. I see that your name is on it, but I'm asking  
15 you right now, did you prepare Exhibit 1?

16 A. Yes.

17 Q. And you prepared Exhibit 1 on or about  
18 February 20th, 2003?

19 A. Yes.

20 Q. And is it true that you had a store visit at  
21 Mr. Allen's store on or about February 20th, 2003?

22 A. Yes.

23 Q. And Mr. Allen was present during that visit?

24 A. Let me look real quick. Sometimes I put a note  
25 back here. I don't remember. I don't know if he was

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1     there or not.

2     Q.         Look at the first page, top right hand. Says,  
3     "Manager present during visit?" "Yes."

4               Do you see where that's --

5     A.         Oh, right here. Okay, yes.

6     Q.         First of all, let me make sure, did you prepare  
7     Exhibit 1 in its entirety?

8     A.         Yes.

9     Q.         Did you have any assistance in preparing  
10    Exhibit 1?

11    A.         No.

12    Q.         And did you prepare Exhibit 1 shortly after the  
13    store visit, on or about February 20th, 2003?

14    A.         Um, the reason I'm holding on there is because  
15    this was a different kind of -- when I first started,  
16    and they changed it, so I'm trying to remember. We used  
17    to be able to do these in the store and give them a  
18    hand -- hand it to them, but then they said hold off,  
19    because you got to review the P&L.

20               So I can't remember exactly if I gave it to him  
21    that time, reviewed it with him and said I'd be sending  
22    him a copy. It'd all depend.

23    Q.         All I'm trying to find out is whether you  
24    prepared Exhibit 1 close to the time of the actual visit  
25    on February 20th --

1 A. Yes.

2 Q. -- 2003.

3 A. Yes.

4 Q. Now, the document states "Date/Time: 2/20/03  
5 10:00 a.m." Does this mean that you prepared the  
6 document at 10:00 a.m. or that you did the visit then?

7 A. Did the visit.

8 Q. And as you sit here now and having reviewed  
9 Exhibit 1, are all the statements that are made in  
10 Exhibit 1 truthful and accurate in all respects?

11 A. Yes, I think so. I mean, I wrote the thing,  
12 yeah.

13 Q. As you sit here now, you believe all of the  
14 statements made in Exhibit 1 to be truthful and  
15 accurate, right?

16 A. Yes.

17 Q. Okay. And it was the company policy for you to  
18 prepare a store visit report following each store visit?

19 A. Yes.

20 Q. And so what was your purpose in preparing  
21 Exhibit 1?

22 A. Store visit.

23 Q. But why did you prepare the document?

24 A. 'Cause after doing a store visit, I have to  
25 prepare a document and send it to the district manager

1 and to everybody else to have a copy of this.

2 Q. So you prepared Exhibit 1 in accordance with  
3 company policies and procedures?

4 A. Correct.

5 Q. And you distributed Exhibit 1 in accordance with  
6 company policies and procedures?

7 A. Correct.

8 Q. Okay. Now, you talked about managers being  
9 experience or inexperienced. And looking at Exhibit 1  
10 in the upper right-hand corner, it says, "Manager's  
11 Tenure "3/98." Do you see where I'm reading from?

12 A. Um-hum.

13 Q. Is that "yes"?

14 A. Yes.

15 Q. Okay. Was it your understanding that Mr. Allen  
16 had been a store manager as of March of 1998?

17 A. Yes.

18 Q. Is that why you made the notation of 3/98 next  
19 to "Manager's Tenure"?

20 A. Yes.

21 Q. So I take it from what you testified earlier  
22 that it was your opinion or expectation that Mr. Allen  
23 was an experienced store manager by the time of this  
24 visit in February of 2003; is that a fair statement?

25 A. It's a fair statement.



1 Q. Now, at the top of page one of Exhibit 1, the  
2 heading is "Purpose of Visit: To review Regional  
3 Inventory Action Plans with the SM."

4 A. Right.

5 Q. "SM" means store manager?

6 A. Correct.

7 Q. So what did you mean by the statement that the  
8 purpose of the visit was, quote, "To review Regional  
9 Inventory Action Plans with the SM"?

10 A. Going back that far, we used to have a setup of  
11 what they wanted us to look for, and one of the things  
12 might have been the regional might have sent -- again,  
13 going from my memory -- might have been something where  
14 we set up a regional action plan for all the stores of  
15 what they needed to follow to get down certain things as  
16 charge-backs, things like that. And when I would go in,  
17 these are the things that I would focus on.

18 Q. Okay. And at some point did you review  
19 Exhibit 1 with Mr. Allen, himself?

20 A. Yes.

21 Q. The actual document?

22 A. I probably did, yes.

23 Q. Was that your normal practice?

24 A. Yes.

25 Q. Do you have any reason to believe that you

1 deviated from your practice?

2 A. The only time I would deviate is if he was not  
3 there.

4 Q. Okay. And as you've indicated on the document,  
5 Exhibit 1, Mr. Allen was present during this store  
6 visit?

7 A. Okay, yes. It's there.

8 Q. That's what it says.

9 A. Yes, okay.

10 Q. I take it you were trying to be as accurate as  
11 possible preparing Exhibit 1?

12 A. Um-hum.

13 Q. Is that "yes"?

14 A. Yes.

15 Q. And that you were trying to be fair to  
16 Mr. Allen, as well, correct?

17 A. Fair in which way?

18 Q. To be objective and fair.

19 A. To be objective, yes.

20 Q. Okay. In other words, you did not go into the  
21 store visit with any kind of bias against --

22 A. No.

23 Q. -- Mr. Allen, did you?

24 A. Huh-uh.

25 Q. Is that --

1 A. No.

2 Q. Okay. And was it your practice to be as fair as  
3 possible in preparing write-ups of your store visits?

4 A. To be objective, yes.

5 Q. Okay.

6 A. Never to be one side or the other.

7 Q. Okay. Do you have a problem with the word  
8 "fair," because that's why I --

9 A. "Fair" means that I would give them an  
10 opportunity to -- 'cause maybe I like Frank better than  
11 I like Bill. No, it wasn't like that. When I went in,  
12 it was always the same thing.

13 Q. So your practice was to treat all store managers  
14 consistently?

15 A. Yes.

16 Q. And to stick with the objective facts?

17 A. Yes.

18 Q. And not to show bias or favoritism for or  
19 against any employee --

20 A. No.

21 Q. -- correct?

22 A. That's right.

23 Q. All right. So then right under the heading, it  
24 says, "Profit and Loss Statement Reviewed:  
25 January 2003."

1           Now, I thought you said that the reports came  
2     out a month later. So this is January -- the profit and  
3     loss statement was for January 2003 that you reviewed?

4     A.       No -- yeah, it would be for January, because  
5     this is February.

6     Q.       Right.

7     A.       And this would come out -- now, again, they have  
8     changed things. I don't remember when they changed it,  
9     but it used to be from, like, the 15th to the 15th, but  
10    then they changed it to the end of the month. So I  
11    don't remember. I remember this was the month  
12    backwards.

13    Q.       All right. So, just so we're clear, as of  
14    February 20th, 2003, you had the January 2003 profit and  
15    loss statement, correct?

16    A.       Correct.

17    Q.       Because you were reviewing that profit and loss  
18    statement with Mr. Allen on your store visit on  
19    February 20th, 2003, right?

20    A.       Correct.

21    Q.       Okay. What was your purpose in reviewing the  
22    profit and loss statement with Mr. Allen on the occasion  
23    of this visit?

24    A.       Because we were instructed by our department,  
25    when we did these reviews -- especially the profit and

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1 statement things -- we had to review it with the  
2 manager. If the manager was not there, we'd send the  
3 thing to them. I always put a note down, "Please call  
4 me when you review this," and then we would go over it  
5 together.

6 Q. Okay. I understand that, but were you looking  
7 for anything in particular in reviewing the profit and  
8 loss statement with Mr. Allen on February 20th, 2003?

9 A. This was a premade form, I should tell you.  
10 These are the things we had to answer, we put the  
11 numbers in. Anything would be flagged out to us, we  
12 would then review it with him.

13 Q. When you say it was a preprinted form, what  
14 information was on the form that you got that you had to  
15 fill in?

16 A. This part right here, the "Profit and Loss  
17 Statement" part.

18 Q. So the document came to you with the profit and  
19 loss information already on it?

20 A. No, we inputted that at the store.

21 Q. Okay. So that's what I'm trying to figure out.  
22 What are you saying was already on the document?

23 A. Well, this part here, the "Profit and Loss" --  
24 the "Profit and Loss Statement" part here, this part I  
25 typed in, all this part. This part would be here, and

1 we would fill this part in, the "Profit and Loss" part  
2 (indicating).

3 Q. Tell me what words were on the document when you  
4 got it.

5 A. All the stuff on the side over here, where it  
6 says total inventory losses, refunds, chargebacks,  
7 deposit differences, credit card chargebacks and  
8 contract chargebacks.

9 Q. Okay. So those headings were there, but the  
10 actual numbers you put in based upon information pulled  
11 off the computer?

12 A. Off the P&L.

13 Q. Off the profit and loss statement?

14 A. Correct.

15 Q. Which was on the computer?

16 A. At that time, this came in as a paper form.

17 Q. So you actually sat -- in preparing Exhibit 1,  
18 you sat at the computer and input manually the numbers  
19 that are under the heading "Profit and Loss Statement  
20 Reviewed"?

21 A. Yes. Question: You say "at the computer." Do  
22 you mean the store computer or my computer?

23 Q. At any computer.

24 A. Okay, at my computer, yes. I would do it at  
25 my -- I had my own laptop.

1 Q. Okay. So, did you fill out this information  
2 before you -- in other words, did you input the numbers  
3 under the "Profit and Loss Statement" heading before you  
4 met with Mr. Allen or afterwards?

5 A. After I got in the store and pulled off his P&L.

6 Q. Okay. So then you used the store computer to  
7 populate the numbers?

8 A. As I said, at that time, it would either be on  
9 the system, or it used to be in paper form. So I don't  
10 remember which one it was at that time. This might have  
11 been the paper form, where I had to go to the drawer,  
12 open the drawer and pull the P&L out and review it.

13 Q. All right. Let's assume, if it was a paper  
14 copy, at the store, you would be looking at the hard  
15 paper copy, correct?

16 A. Correct.

17 Q. When did you put these numbers in on Exhibit 1?

18 A. That day, the day we started to do the report.

19 Q. So you did that at the store?

20 A. Correct.

21 Q. Okay. In the presence of Mr. Allen?

22 A. No. I would do this and then have the person --  
23 manager or Mr. Allen come back with me and review it  
24 with him then.

25 Q. All right. So am I correct, then, in

1 understanding that before you actually met with  
2 Mr. Allen, you looked at the profit and loss report for  
3 his store and input onto Exhibit 1 the relevant numbers?

4 A. Correct, yes.

5 Q. Okay. So, when it says "Total Inventory Loss,"  
6 what does that mean?

7 A. Tell how much the store -- it probably means --  
8 see, for some reason, this part's blacked out here, and  
9 if I remembered right, this used to have the year to  
10 date and things like that. But I don't know why it's  
11 like this. I have no idea. And it used to have, like,  
12 the year.

13 So this would be, I would say to the year, he's  
14 lost \$814. It's 7.5 percentage of profit or whatever.  
15 This might be an over -- not a loss but a gain.

16 Q. You need to slow down. Okay.

17 A. The first number is a gain number, from what I  
18 remember. So that may mean 75 percent of what he was  
19 supposed to get. Again, without having all the  
20 information up here, it's hard for me to remember that  
21 stuff.

22 Q. That's fair enough. I see what you're saying.  
23 We appear to be --

24 MS. VERONESE: The headings are --

25 MS. THOMPSON: Q. -- missing headings.



1 A. Right.

2 Q. Assuming they were over there, which I don't  
3 know. I've only seen the document like this.

4 A. Right.

5 Q. Okay. So moving beyond "Profit and Loss  
6 Statement Reviewed" to "Daily Reports and Operational  
7 Review" -- by the way, I assume that you made sure that  
8 you accurately input the numbers here from the profit  
9 and loss statement on Exhibit 1?

10 A. If it was on the report, that's what I put in.

11 Q. Okay. Under the heading "Daily Reports and  
12 Operational Review," where it says "Refunds" "0 out of  
13 29 refunds either had the SM or issuers signature as per  
14 company policy." So tell me what that statement means.

15 A. Well, it means that yes, signed the refund, is  
16 what it means.

17 Q. Well, how many -- out of -- there are 29 refunds  
18 total, right?

19 A. Right, um-hum.

20 Q. And how many of those had the store manager --  
21 had the store manager's signature on it as per company  
22 policy?

23 A. The issuer would be the sales associate, from  
24 what I remember. We changed that, so I'm trying to  
25 remember that part. It would mean that 0 out of 29 had

1 this information, had them either sign it, either by the  
2 store manager or by the issuer.

3 Q. Okay. So --

4 A. That was within policy. He was within policy.

5 Q. Wait. Company policy required that either the  
6 store manager or the issuer sign the refund, right?

7 A. Right. Okay.

8 Q. And there were 29 times -- there were a total of  
9 29 refunds, right?

10 A. One second. Let me read this here.

11 Q. Yeah, please do.

12 A. This is a long time ago.

13 Q. No, please take as much time as you need to read  
14 it.

15 A. Okay. What that means is 0 out of the 29 either  
16 did not have the manager's signature or the issuer's  
17 signature.

18 Q. So that meant that company policy had not been  
19 complied with --

20 A. Correct.

21 Q. -- 29 times, right --

22 A. Correct.

23 Q. -- with respect to the refunds, right?

24 A. Correct.

25 Q. So, in your mind, what did that tell you about

1    how the store manager was performing on that aspect of  
2    his job?

3    A.       He wasn't following policy or procedure.

4    Q.       And was it, to your understanding, an important  
5    requirement, that either the store manager or the issuer  
6    sign the refunds?

7    A.       Yes.

8    Q.       And why was that important?

9    A.       It showed that the manager reviewed them, right,  
10   to make sure they were in compliance. 'Cause what the  
11   manager would have to do -- again, this is going way  
12   back, because they've changed things -- the manager  
13   would have to review it, take the ticket and check the  
14   merchandise to make sure the merchandise was there. So  
15   if a person returned something, the item should be back  
16   on the shelf and the count should be correct.

17   Q.       So did it cause you concern that -- was this --  
18   this says "Daily Reports and Operational Review." So  
19   were these refunds in one day that you were looking at?

20   A.       Usually, when I reviewed things, right, again,  
21   everything changed. Trying to remember if it was -- I  
22   did a couple of days, or they only wanted us to look at  
23   one day.

24   Q.       Okay.

25   A.       I don't remember that part. I remember -- to me

1 it might have been because of so many tickets in 29 days  
2 being his store, it might have been just one day I  
3 looked at.

4 Q. 29 refunds.

5 A. 29 refunds, yeah.

6 Q. Not like --

7 A. Or it could have been over a period of time. I  
8 don't -- that part I don't remember.

9 Q. But I'm just talking about your general  
10 practice, then. Would you be looking at one day or --  
11 or what was the longest period of time you would be  
12 looking at, in terms of this consistency of following  
13 company policy with regard to refunds?

14 A. Usually about a week, five days.

15 Q. Okay. So you don't know whether you were  
16 looking at one day or up to a week of refunds?

17 A. Yes, that I don't remember.

18 Q. Did it cause you --

19 A. I mean --

20 Q. Did it cause you any concern that 0 out of 29  
21 refunds were noncompliant with company policy?

22 A. Yes.

23 Q. And did you think that was a serious violation?

24 A. Yes.

25 Q. Did you speak with Mr. Allen about it at the

1 time?

2 A. Yes.

3 Q. And what was his response?

4 A. If I, like I said, did speak to him, probably,  
5 but I think --

6 Q. Well, no, I'm not asking you to guess or  
7 speculate. Do you have any memory now --

8 A. No.

9 Q. -- of what Mr. Allen said, if anything?

10 A. I don't remember. I'm sorry, it was so long  
11 ago.

12 Q. That's fair.

13 A. Okay.

14 Q. And I totally understand that. So I don't want  
15 you to torture yourself if you don't remember. If you  
16 don't remember, you can tell me, okay?

17 A. I just -- I don't remember.

18 Q. Okay. The next thing is voids. What is a void?

19 A. A void is to void out a sale so that sale  
20 doesn't sit up there in the system, because what will  
21 happen is if you don't void out a sale, that's where a  
22 cash shortage is.

23 Q. Would you keep your voice up and slow down?

24 A. That's where a cash shortage could happen.

25 Q. Okay. This states, quote, "0 out of 2 voids

1     were not signed by the store manager as per company  
2     policy."

3     A.         Right.

4     Q.         Was it company policy that the store manager,  
5     himself or herself, actually signed the void?

6     A.         Yes, except when they're on vacation.

7     Q.         Okay. But assuming the store manager is not on  
8     vacation, he or should would be required under all  
9     circumstances to sign the voids, correct?

10    A.         Correct.

11    Q.         And would you expect Mr. Allen, as an  
12    experienced store manager, to know that?

13    A.         Yes.

14    Q.         And is this a particularly -- is this difficult  
15    to comply with this requirement of having voids signed  
16    by the store manager?

17    A.         Typical? No.

18    Q.         Difficult.

19    A.         No.

20    Q.         Would you expect Mr. Allen to understand and be  
21    familiar with the company's policies with respect to  
22    signing refunds?

23    A.         Say it again. I'm sorry.

24               MS. THOMPSON: Could you read it back, please.

25               (Record read by the reporter:

1 "Question: Would you expect Mr. Allen to  
2 understand and be familiar with the  
3 company's policies with respect to signing  
4 refunds?")

5 THE WITNESS: Yes.

6 MS. THOMPSON: Q. Again, that's not a  
7 particularly difficult requirement, is it?

8 A. No.

9 Q. Why was it important, as a matter of company  
10 policy, to have the store manager sign the voids?

11 A. Again, the same thing, is to review the voids,  
12 sign them to make sure they were real, and at the same  
13 time, he can, you know, verify that there's no -- any  
14 kind of dishonesty going on. By signing the void, he  
15 knows it's a void. So when he does his -- the banking  
16 at the end of the day, it doesn't show up as a cash  
17 shortage. Because a void has happened, now there's no  
18 cash in the drawer for that void.

19 Q. So was that an important -- was it your  
20 understanding that Radio Shack viewed that as an  
21 important control?

22 A. Yes.

23 Q. The next item says "Cash Settlement." Quote,  
24 "The store had a \$130 shortage in the past 30 days," end  
25 quote. Was that a significant shortage for 30 days?

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1 A. Yes.

2 Q. Would there be any kind of average shortage that  
3 you might expect in a 30-day period?

4 A. Um --

5 Q. Or would you expect zero?

6 A. I'd expect zero, really. Any shortage -- like  
7 they said, any shortage is a bad shortage. We're short.

8 Q. So I'm just trying to understand, based upon  
9 your experience and familiarity with Radio Shack's  
10 policies and procedures, how significant a shortage was  
11 \$130 for a 30-day period?

12 A. Um, it was -- it would be significant, something  
13 we would look into, or something I would look into.

14 Q. Do you remember discussing this -- I take it  
15 this caused you concern that Mr. Allen's store had \$130  
16 shortage in the past 30 days?

17 A. I -- all I can say is yes. That's all I can  
18 say.

19 Q. I'm just trying to find out if it caused you  
20 concern. That's "yes" or "no."

21 A. Yes.

22 Q. Okay. And did you discuss your concern with  
23 Mr. Allen?

24 A. If I reviewed it with him, yes.

25 Q. Okay. And your practice, again, would have been



1 to review it --

2 A. Yes.

3 Q. -- with him?

4 A. Um-hum.

5 Q. It being Exhibit 1?

6 A. Yes.

7 Q. And did Mr. Allen have any response?

8 A. Don't remember.

9 Q. Okay. Now, under "payroll," it notes --

10 Exhibit 1 reads, quote, "Timecards need to be filled out  
11 by employees every day worked," end quote. What was  
12 your purpose in writing that notation on Exhibit 1?

13 A. It's -- number one, company; it was a company  
14 policy, had to do it, and a state law, in case a state  
15 auditor would walk in the store. Because everything had  
16 to be on there, showing lunches and stuff.

17 Q. Were you making a note on Exhibit 1 because  
18 timecards were not being filled out by employees --

19 A. Yes.

20 Q. -- every day?

21 A. Um-hum. That's what -- yes, that's what I'm  
22 reading (indicating).

23 Q. So did that cause you concern that -- well, let  
24 me back up.

25 In your mind, as regional loss prevention

1 manager and based on your knowledge of Radio Shack  
2 company policies and procedures, was that a significant  
3 issue, that Mr. Allen was not making sure timecards were  
4 being completed every day?

5 A. Loss prevention issue? It was a company policy,  
6 so I would have to say yes, that was an issue.

7 Q. Did that cause you concern when you learned --  
8 based upon your review, your store visit -- that  
9 timecards were not being filled out by employees every  
10 day worked? Did that cause you concern?

11 A. Concern that he wasn't following policy, yes.

12 Q. Then the notation is, "any SPIFF" -- that's  
13 S-P-I-F-F -- "recorded should include a ticket # to  
14 ensure validity," end quote.

15 Did you make that notation because SPIFFs were  
16 not including a ticket number?

17 A. On the timecard, you would have to have a SPIFF  
18 and then right next to the ticket number, and those  
19 weren't on there.

20 Q. Can you tell me what a SPIFF is?

21 A. They would get extra money if they sold a phone,  
22 sold accessories and things like that, for the phone;  
23 they would be considered a SPIFF.

24 Q. SPIFF would mean extra compensation for the  
25 employee?

1 A. Correct.

2 Q. So it was important that the information be  
3 recorded completely and accurately?

4 A. Correct.

5 Q. To ensure that the employee was being paid  
6 properly?

7 A. Correct.

8 Q. Again, did you review this as a serious concern  
9 that this information was not being properly recorded?

10 A. Yeah, I would see it as a problem with the  
11 policy.

12 Q. The next statement is, quote, "the SM" -- store  
13 manager -- "must review and sign each employee's  
14 timecard for accuracy prior to closing payroll," end  
15 quote. Did you observe that the store manager was not  
16 reviewing and signing each employee's timecard?

17 A. Can't remember what I saw that day.

18 Q. Okay.

19 A. But -- that's all I can say. I mean, I can give  
20 you a for-instance. I don't remember what I saw this  
21 day.

22 Q. But my point is, did you make this notation on  
23 Exhibit 1 because, based upon your review, you reached  
24 the conclusion that the store manager was not reviewing  
25 and signing each employee's timecard for accuracy?

1 A. It would probably be yes. Because it's on  
2 there; I put it down.

3 Q. So why did you write it down?

4 A. Again, I would say hypothetical -- going through  
5 other things I've done, not just Frank, but bottom line  
6 is it was the responsibility of the store managers to  
7 fill out the timecards every time at the close of  
8 payroll. When I looked at the sheets, payroll, a lot of  
9 that stuff wasn't on there, but it was on the sheets, on  
10 the payroll sheets. So on the timecards, it wasn't  
11 there. Over here it was, on the timesheets.

12 Q. Are you guessing that happened, or do you have a  
13 memory of that?

14 A. I don't have a memory of it.

15 Q. Okay. All right. Again, I'm just -- would it  
16 be your practice, if you observed that each employee's  
17 timecard had not been signed by the store manager, to  
18 note that in a store visit report such as Exhibit 1? In  
19 other words, what I'm trying to find out is, because you  
20 made a notation in here, does that indicate to you there  
21 was a problem with the store manager signing each  
22 employee's timecard?

23 A. Well, yeah.

24 Q. Okay. That's all I'm trying to figure out.

25 A. Right there, it says it.

1 Q. All right. Looking at page two of Exhibit 1,  
2 about halfway down the page -- well, actually, the top  
3 third, it says, "Applications On File."

4 Quote, "0 out of 7 RSAP applications did not  
5 have the hard copy of the RSAP contract signed and  
6 attached to the document," end quote.

7 What does RSAP stand for?

8 A. Radio Shack -- I can't remember the rest of it.

9 Q. Okay. Even if you don't remember what the  
10 acronym stands for, do you know what an RSAP application  
11 is?

12 A. I think it was a credit card.

13 MS. VERONESE: Don't guess.

14 THE WITNESS: I don't remember.

15 MS. THOMPSON: Q. But obviously you thought it  
16 was important enough to note on Exhibit 1 that zero out  
17 of seven applications did not have the hard copy  
18 contract signed and attached, right?

19 A. Correct, yes.

20 Q. Under "General Security," next to "Stockroom,"  
21 it says, quote, "Backroom door was open upon my arrival  
22 to the store but the security cage was locked," end  
23 quote. I thought you indicated earlier that having the  
24 back room door open was a violation of company policy?

25 A. Correct. But I can stop you right there. I put

1 it in here, right?

2 Q. Yes.

3 A. That's just to show what I found.

4 Q. Yes.

5 A. There should have been a VOCP with it.

6 Q. I'm sorry, there should have been a VOCP with  
7 what?

8 A. If I found the back door open, right, or propped  
9 open when I arrived, then I would do a separate document  
10 called the VOCP, violation of company policy.

11 Q. And would you do that each and every time you  
12 found a back room door open?

13 A. Yes.

14 Q. And you believe you did a separate document  
15 called a VOCP with respect to the open back room door  
16 for Mr. Allen?

17 A. I would say I don't remember, but I would say I  
18 would have done it.

19 Q. That would be your normal policy and practice?

20 A. Yes. Now, there would be circumstances where I  
21 would walk in, the back door would be open, the  
22 stockroom door, but they're doing inventory. And the  
23 district manager says, "I'm approving this."

24 Q. Okay.

25 A. It means if I sent the VOCP, he wouldn't do

1 anything with it anyway.

2 Q. But you did not note anywhere on Exhibit 1 that  
3 there was inventory --

4 A. No.

5 Q. -- or that the district manager had given  
6 permission --

7 A. I would have been --

8 Q. -- for the door being open, right?

9 A. Correct.

10 MS. THOMPSON: Let's mark the next document as  
11 Exhibit 2.

12 (DEFENDANT'S EXHIBIT NO. 2  
13 WAS MARKED FOR IDENTIFICATION.)

14 (Recess taken.)

15 MS. THOMPSON: Okay. Back on the record.

16 Q. Right before the break I marked as Exhibit 2 a  
17 one-page document, Bates numbered Radio Shack/Allen224,  
18 with a date of February 20th, 2003, to Hani Alzaghari  
19 from Tom Nabozny.

20 Please take as much time as you need to read  
21 Exhibit 2, and let me know when you're finished.

22 MS. VERONESE: He's leaving.

23 (Mr. Allen left the deposition room.)

24 THE WITNESS: Okay.

25 MS. THOMPSON: Q. All right. Did you prepare

1 Exhibit 2?

2 A. Yes.

3 Q. Did you prepare Exhibit 2 in its entirety?

4 A. Yes.

5 Q. And did you prepare Exhibit 2 on or about  
6 February 20th, 2003?

7 A. Yes.

8 Q. And is Exhibit 2 a violation of company policy  
9 memorandum?

10 A. Yes.

11 Q. And did you prepare Exhibit 2 as part of your  
12 duties and responsibilities as loss prevention manager?

13 A. Yes.

14 Q. I see that you directed -- it appears to be that  
15 Exhibit 2 is directed to Hani Alzaghari DSM. He's the  
16 district sales manager, correct?

17 A. Yes.

18 Q. And a cc to Tom Schultz RSM?

19 A. Um-hum.

20 Q. Is that "yes"?

21 A. Yes.

22 Q. Tom Schultz was the regional sales manager at  
23 the time?

24 A. Yes.

25 Q. And you also sent it to P. Blair, director of

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1 loss prevention; is that right?

2 A. Yes.

3 Q. And does Exhibit 2 concern your visit to  
4 Frank Allen's store on February 20th, 2003?

5 A. This is addressing the money I found in a  
6 drawer.

7 MS. THOMPSON: Okay. I'm sorry, could you just  
8 read my question back.

9 (Record read by the reporter:

10 "Question: And does Exhibit 2 concern your  
11 visit to Frank Allen's store on February  
12 20th, 2003?")

13 THE WITNESS: Yes.

14 MS. THOMPSON: Q. Okay. And are the statements  
15 that are made in Exhibit 2 truthful and accurate in all  
16 respects?

17 A. Yes.

18 Q. And what was your purpose in preparing  
19 Exhibit 2?

20 A. As it states in here, I found -- while doing the  
21 visit, I found a box in a drawer, um, at which time I  
22 confronted Frank with it, probably, and went over  
23 everything with him. And he explained what it was and  
24 everything. I told him it was a violation of company  
25 policy, you know, and I'd have to write it up and turn

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1 this over to his district manager.

2 Q. Okay. So is it true that keeping cash in the  
3 store manager's desk was at the time a violation of  
4 company policy?

5 A. Yes.

6 Q. And Mr. Allen, the document, Exhibit 2, states,  
7 quote, "Allen stated that it was money that he would  
8 keep on hand so he would not have to keep running to the  
9 bank to get change," end quote. Is that an accurate  
10 statement of what Mr. Allen told you during the store  
11 visit on February 20th, 2003?

12 A. I would say yes because it's in there. I wrote  
13 it down. So I would say yes.

14 Q. Then the statement is made in Exhibit 2, "Allen  
15 stated he did not like keeping that much money in the  
16 cash drawer because he was afraid that he would be  
17 robbed, so he kept the money separate from the cash  
18 drawer," end quote.

19 Again, does that accurately reflect what  
20 Mr. Allen told you during your store visit?

21 A. Yes.

22 Q. The next statement is, quote, "Allen said that  
23 he would make sure that he counted the money when he did  
24 the bank settlement so the cash drawer would not be  
25 short," end quote. Why did you make that notation

1     there?

2     A.           Because I probably was curious as to why it  
3     wasn't showing up as a cash shortage. So he would take  
4     the money out, and then he would count that money when  
5     he did his bank settlement at the end of the day. I  
6     think that's what it's called, bank settlement, at the  
7     end of the day.

8     Q.           So, in other words, the money that he was  
9     keeping in the store manager's desk drawer would be  
10    counted at the end of each day when he did the bank  
11    settlement?

12   A.           Yes.

13   Q.           And because he did that, it would not show up as  
14    a shortage?

15   A.           Correct.

16   Q.           And did you tell Mr. Allen that he needs to  
17    understand that this practice is strictly against  
18    company policy?

19   A.           Yes.

20   Q.           Did you tell Mr. Allen that he had to follow the  
21    company policy for all cash procedures?

22   A.           Yes.

23   Q.           Did you tell him all cash must be kept in a cash  
24    drawer in a company-provided; drop safe?

25   A.           Yes.

1 Q. Did you tell Mr. Allen that he had an extra  
2 working cash drawer that is currently filled with odds  
3 and ends?

4 A. Yes.

5 Q. Did you tell him that the money that was kept in  
6 the manager's desk drawer should, instead, be kept in  
7 this extra cash drawer so that it could be monitored by  
8 him at all times?

9 A. Yes.

10 Q. And did you tell him this change needs to be  
11 made as soon as possible?

12 A. Yes.

13 Q. And he would be held accountable to follow all  
14 company policies at all times?

15 A. Yes.

16 Q. Did Mr. -- let me make sure I understand  
17 something. There was room, physical room, in the cash  
18 register to keep the money that you observed was, in  
19 fact, in the manager's desk in the back?

20 A. I would say -- I have to think again, because we  
21 switched over to two different drawers. We used to have  
22 this old wooden drawer with a combination on it, and it  
23 was very small. So I --

24 MS. VERONESE: Don't guess.

25 THE WITNESS: I don't remember.